

Board of Zoning Adjustment

Staff Report

July 6, 2020



Case No: 20-VARIANCE-0054
Project Name: Frankfort Avenue Variance
Location: 1830 Frankfort Avenue
Owner/Applicant: Randell Simmons
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
Case Manager: Zach Schwager, Planner I

REQUEST:

Variance from Land Development Code section 5.1.10.F to allow an accessory structure to encroach into the required side yard setbacks.

Location	Requirement	Request	Variance
East Side Yard	3 ft.	0.58 ft.	2.42 ft.
West Side Yard	3 ft.	0.67	2.33 ft.

CASE SUMMARY/BACKGROUND

The subject site is zoned R-5B Residential Two-Family in the Traditional Neighborhood Form District. It is a single-family structure located in the Clifton neighborhood and preservation district. The existing structure is two-stories and the applicant is proposing to replace the existing garage at the rear of the property with a new garage that would encroach into the required side yard setbacks.

The subject property is 30 feet in width. Land Development Code section 5.1.10.F allows for a lot less than 50 feet in width to have a side yard setback requirement of 10% of the width of the lot. The required side yard setback is therefore three feet.

The proposed garage is scheduled to be heard by the Clifton Architectural Review Committee on July 1, 2020.

STAFF FINDINGS

Staff finds that the requested variance meets standards (b), (c), and (d), but staff is concerned that the variance request does not meet standard (a) because construction and maintenance of the addition may have an adverse impact on the adjoining property owner.

Based upon the information in the staff report, and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards for granting a variance established in the Land Development Code from section 5.1.10.F to allow a principal structure to encroach into the required side yard setbacks.

TECHNICAL REVIEW

No technical review required.

INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

RELATED CASES

None.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.1.10.F

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare, because the proposed addition must be constructed to comply with all building codes, including fire codes; however, staff is concerned that the variance could adversely affect the adjacent property owner because construction and maintenance of the structure may require encroachment onto the neighboring property.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: If the proposed garage is approved by the Clifton Architectural Review Committee on July 1, 2020 Planning & Design staff has no concerns that the requested variance will alter the essential character of the general vicinity.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed structure will be a similar distance from the side property lines as the existing garage.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does not arise from special circumstances which do generally apply to the land in the general vicinity or the same zone as the lot is similar in size and shape as the surrounding properties.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant as the proposed garage could be constructed to meet the setbacks.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not begun construction.

VARIANCE PLAN REQUIREMENT

In accordance with LDC Section 11.5B.1.C (Requirement to Follow Approved Plan), a variance shall be approved only on the basis of the plan approved by the Board and shall be valid only for the location and area shown on the approved plan. All construction and operations must be conducted in accordance with the approved plan and conditions attached to the variance.

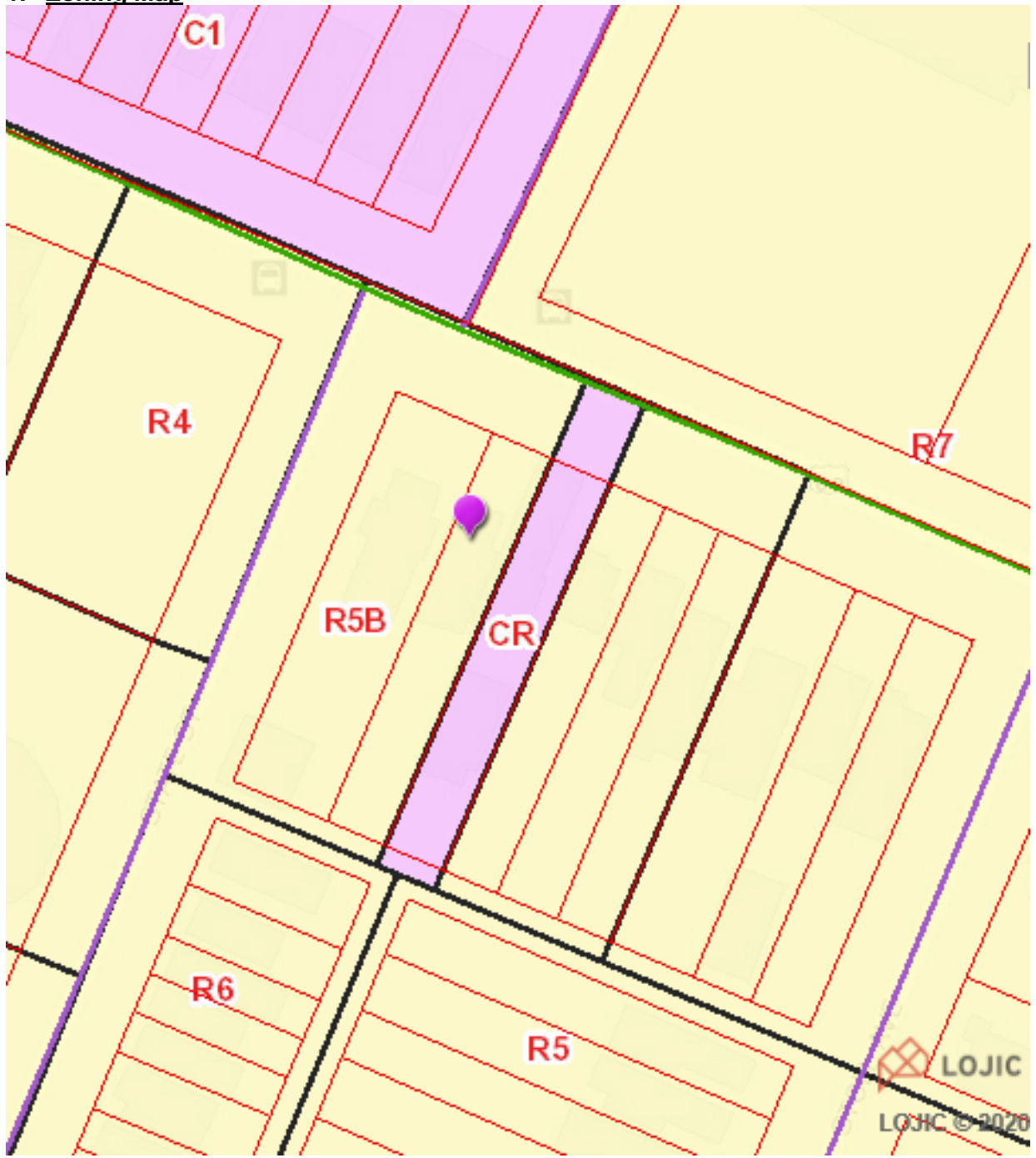
NOTIFICATION

Date	Purpose of Notice	Recipients
06/19/2020	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 9
06/26/2020	Hearing before BOZA	Notice posted on property

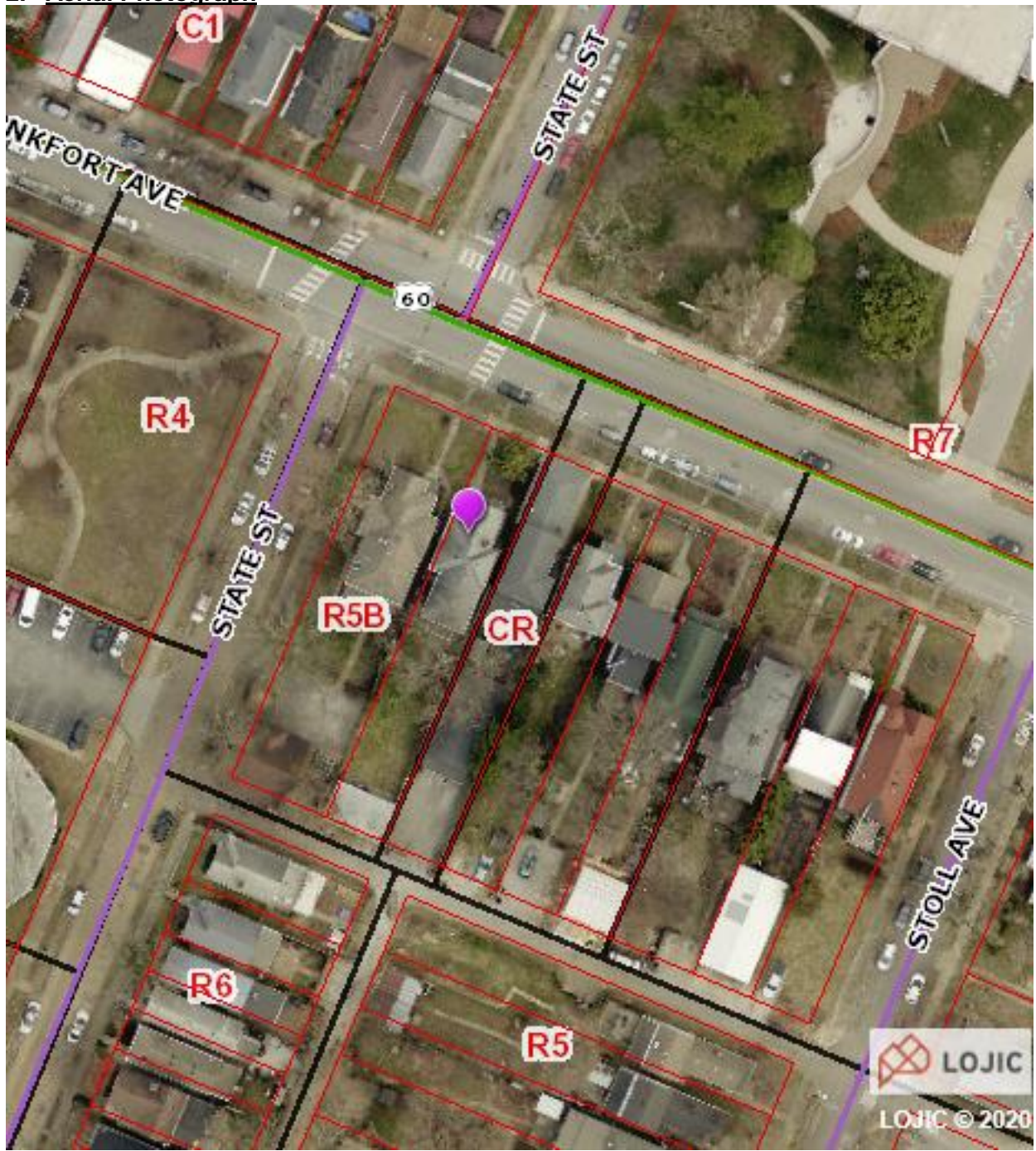
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Site Photos

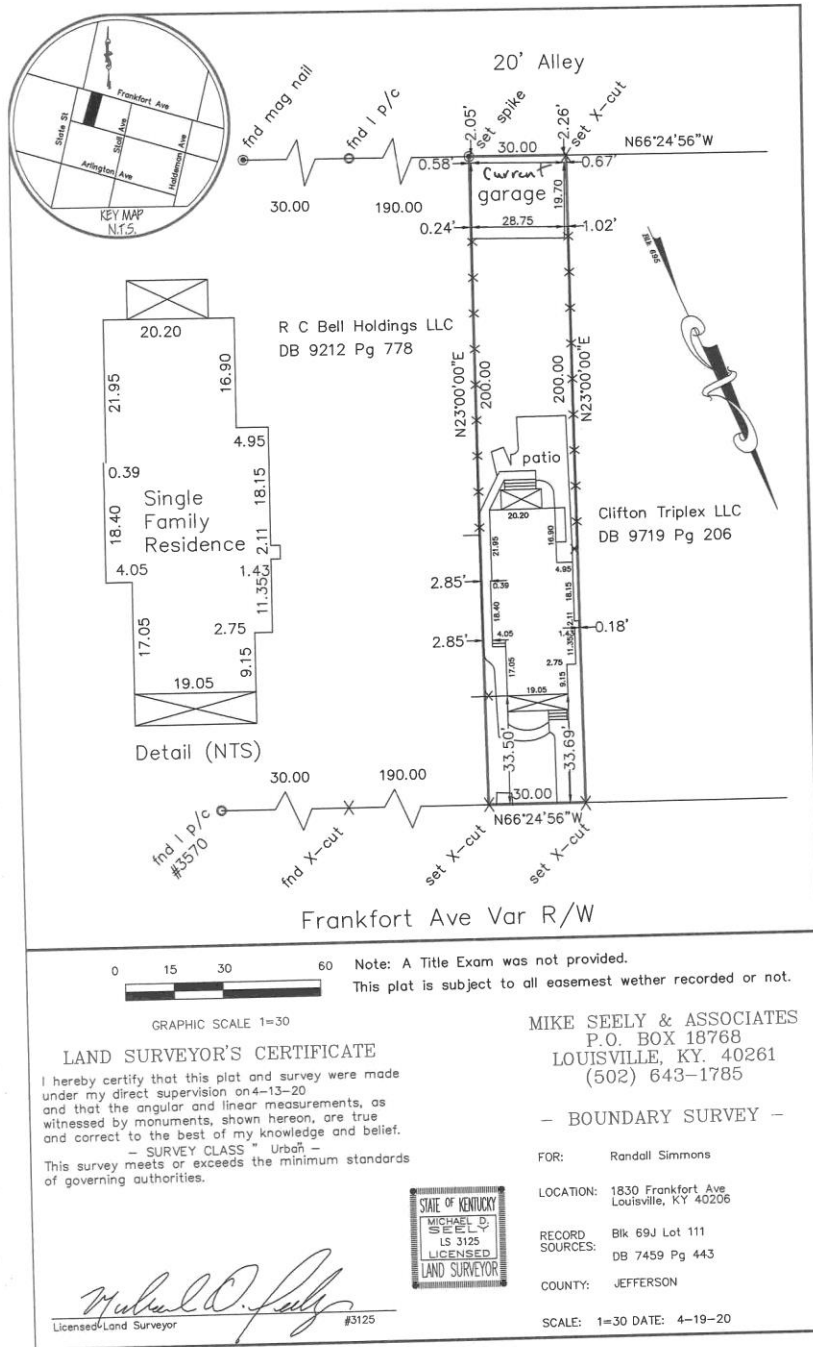
1. Zoning Map



2. Aerial Photograph



3. Site Plan



4. Site Photos



Front of subject property.



Existing garage.



Variance area.



Variance area.



Garage from alley.