

Board of Zoning Adjustment

Staff Report

September 14, 2020



Case No:	20-VARIANCE-0064
Project Name:	Rock Creek Drive Variance
Location:	3216 Rock Creek Drive
Owner(s):	Francis & Alice Fensterer
Applicant:	Omar Tatum – Omar Tatum Construction, LLC
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Zach Schwager, Planner I

REQUESTS:

Variance from Land Development Code section 5.1.12.B.2.e.i.1 to allow a principle structure to encroach into the required infill front yard setback.

Location	Requirement	Request	Variance
Side Yard	34 ft.	30.1 ft.	3.9 ft.

CASE SUMMARY/BACKGROUND

The subject site is zoned R-5 Residential Single-Family in the Neighborhood Form District. It is a single-family structure located in the Rock Creek Gardens subdivision. The existing structure is one-story and the applicant proposes to add an addition on the front of the residence. The proposed addition will encroach into the infill front yard setback.

STAFF FINDINGS

Staff finds that the requested variance is adequately justified and meets the standard of review.

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 5.1.12.B.2.e.i.1 to allow a principal structure to encroach into the required infill front yard setback.

TECHNICAL REVIEW

No technical review required.

INTERESTED PARTY COMMENTS

Staff received a phone call about the proposed variance request.

RELATED CASES

14VARIANCE1069 – Variance to allow an addition to encroach into the required infill street side yard setback.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.1.12.B.2.e.i.1

- (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.

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

STAFF: The requested variance will not alter the essential character of the general vicinity as the proposed addition would slightly encroach into the infill front yard setback. There is a solid street wall along Rock Creek Drive, however, there are variations.

- (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 addition 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 addition would only slightly encroach into the infill front yard setback.

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 not 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 they could construct a smaller addition that would not require a variance.

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.

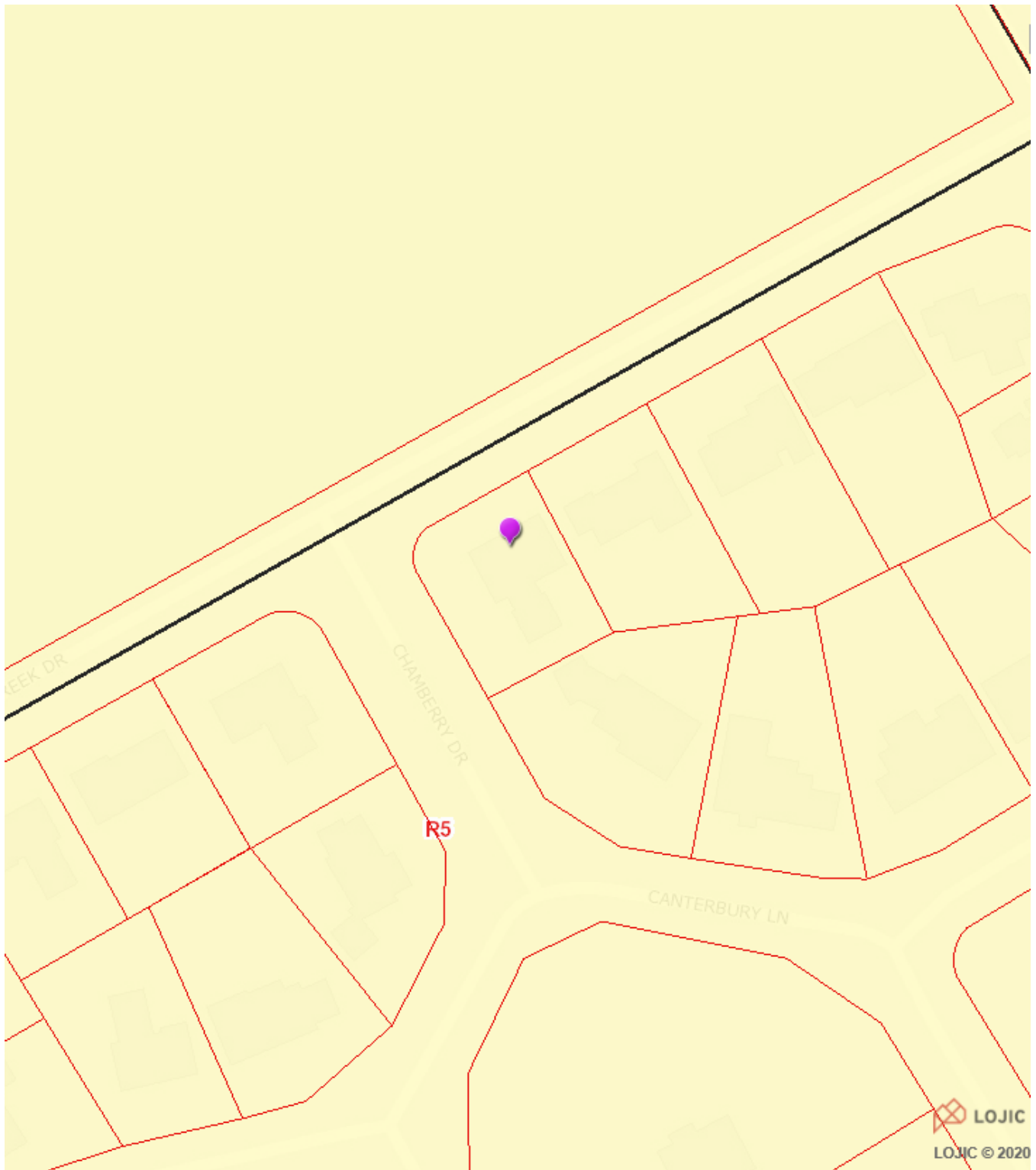
NOTIFICATION

Date	Purpose of Notice	Recipients
08/26/2020	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 9
08/31/2020	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

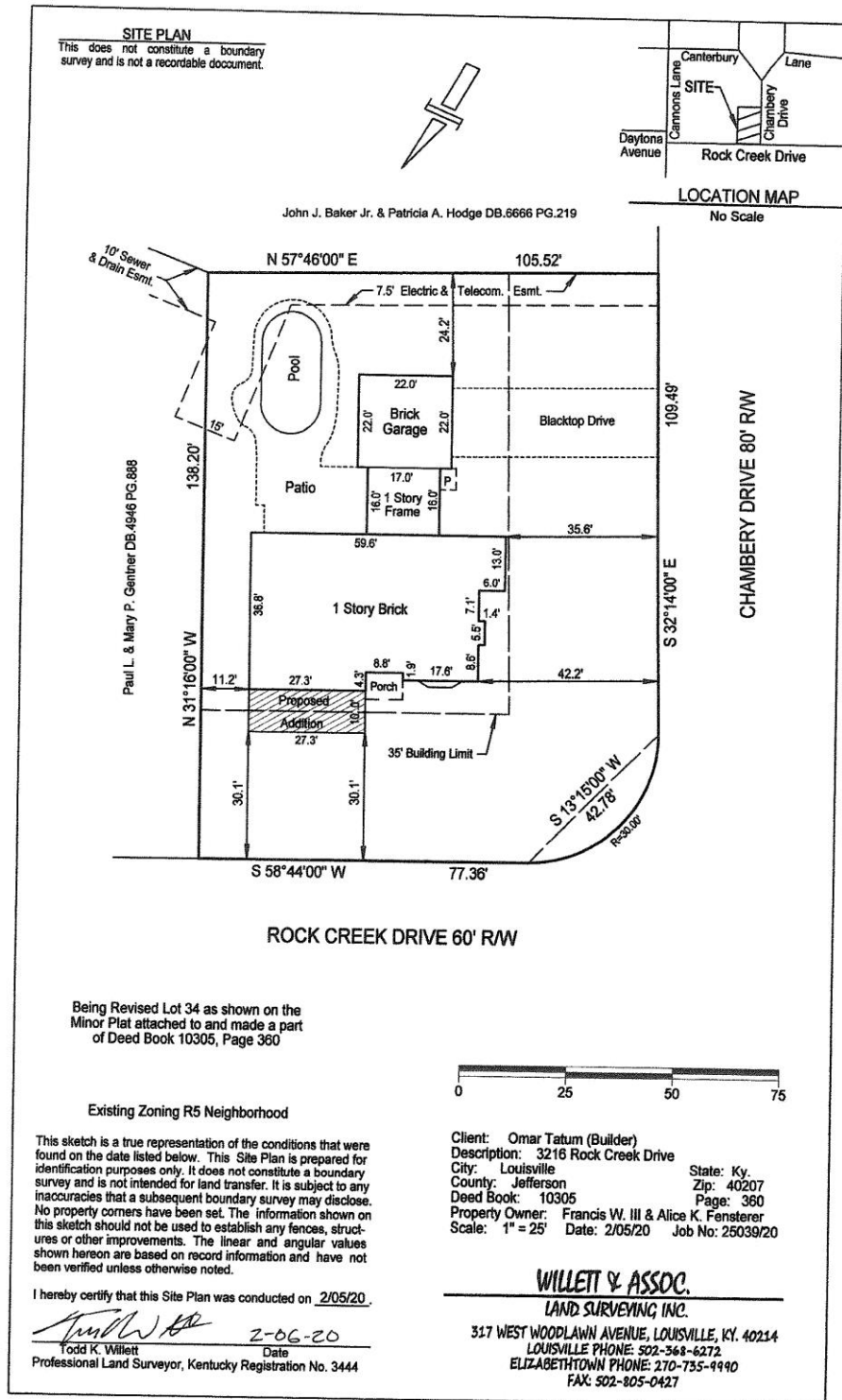
1. Zoning Map



2. Aerial Photograph



3. Site Plan



4. Site Photos



Front of subject property.



Property to the left.



Property across Rock Creek Drive.



Infill setback area.



Variance area.