

Board of Zoning Adjustment

Staff Report

December 7, 2020



Case No:	20-VARIANCE-0095 and 20-VARIANCE-0096
Project Name:	Baxter Avenue Variances
Location:	437 Baxter Avenue
Owner(s):	ERW Revocable Trust
Applicant:	Charles Podgursky – CRP & Associates Inc.
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Zach Schwager, Planner I

REQUESTS:

Variance (20-VARIANCE-0095) from Land Development Code section 5.1.12.A.2.a to allow an addition to an existing principal structure to encroach into the required infill front yard setback and table 5.2.2 to allow the structure to encroach into the required side yard setbacks.

Variance (20-VARIANCE-0096) from Land Development Code section 5.4.1.D.2 to allow a private yard area to be less than the required 20% of the area of the lot.

Location	Requirement	Request	Variance
Front Yard	15 ft.	0 ft.	15 ft.
Side Yards	5 ft.	0 ft.	5 ft.

Location	Requirement	Request	Variance
Private Yard Area	713 sq. ft.	551 sq. ft.	162 sq. ft.

CASE SUMMARY/BACKGROUND

The subject site is zoned C-2 Commercial in the Traditional Neighborhood Form District in the Irish Hill neighborhood. It is currently vacant office space and the applicant wants to change the principal structure to a single-family structure with an accessory apartment at the rear of the property. The applicant is proposing to construct a two-story addition onto the front of the existing structure to make it completely two-stories. This addition would encroach into the infill front and side yard setbacks. There is also a proposed addition for the accessory structure that would reduce the private yard area to be less than the required 20% of the area of the lot.

STAFF FINDINGS

Staff finds that the requested variance for 20-VARIANCE-0095 meets standard (c) but staff is concerned that the variance request does not meet standards (a), (b), and (d) as described in the standard of review and staff analysis.

Staff finds that the requested variance for 20-VARIANCE-0096 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.A.2.a to allow a principal structure to encroach into the required infill front yard setback and .

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 VARIANCES FROM SECTION 5.1.12.A.2.a AND TABLE 5.2.2

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

STAFF: The requested variances 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 variances could adversely affect the adjacent property owners because construction and maintenance of the structure may require encroachment onto the neighboring properties.

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

STAFF: The requested variance will alter the essential character of the general vicinity as the four other single-family residential structures on the block have a consistent 15 ft. front yard setback. The side yard setback would be consistent with the other structures.

- (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 allow an unreasonable circumvention of the zoning regulations as the other single-family residential structures on the block have a consistent 15 ft. 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 generally apply to the land in the generally vicinity or the same zone as the subject property is similar in size and shape compared to the other single-family land uses on the block.

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 are adding floor area onto the principal structure and the portion of the addition that requires a variance does not add a significant amount of space.

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.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES FROM SECTION 5.4.1.D.2

- (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 single-family uses on the block all have reduced private yard areas.

- (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 alter the essential character of the general vicinity as the single-family uses on the block all have reduced private yard areas.

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 arise from special circumstances which do generally apply to the land in the generally vicinity or the same zone as the subject property and surrounding properties have reduced private yard areas.

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 accessory structure is currently large enough for an accessory apartment.

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.

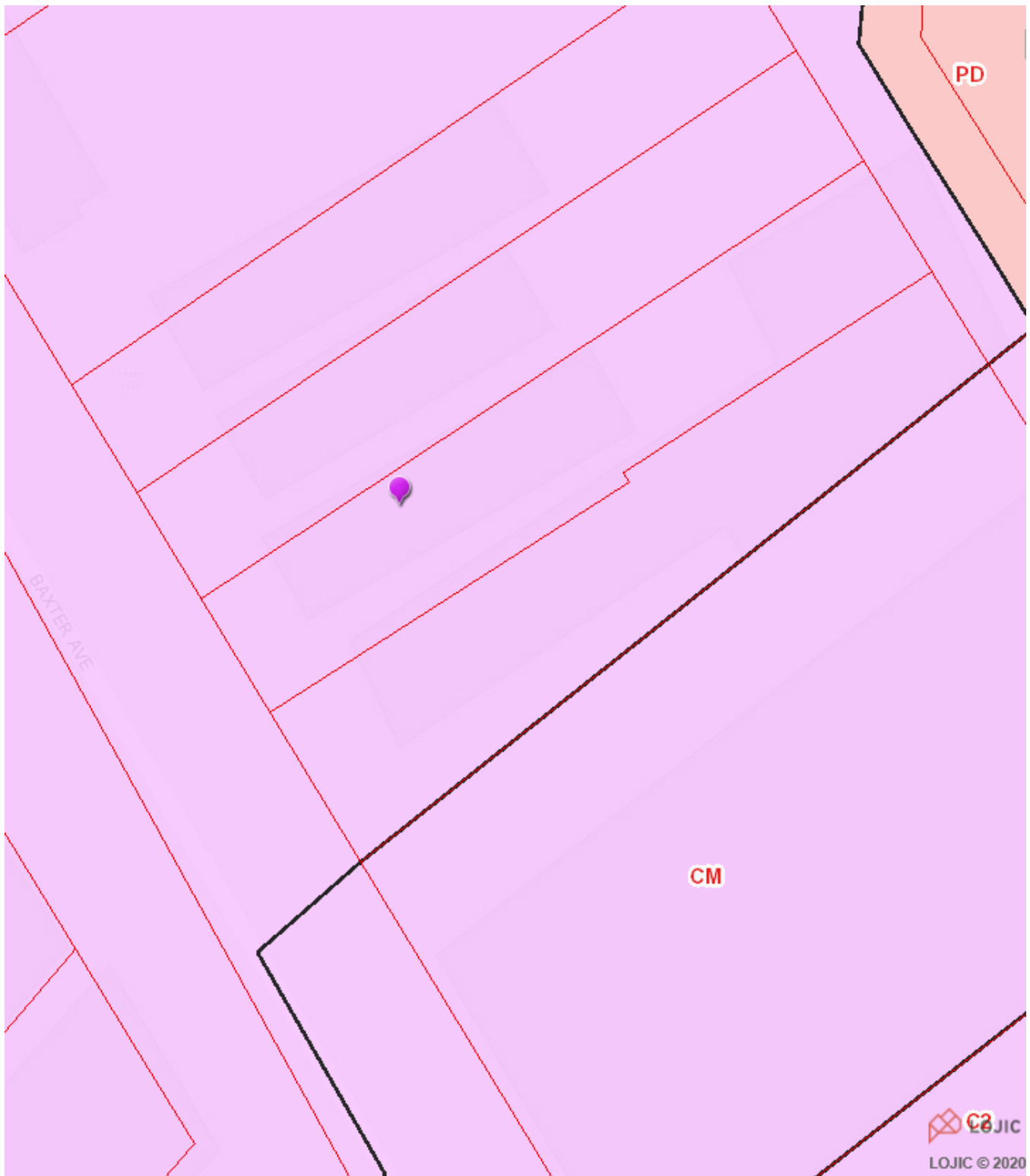
NOTIFICATION

Date	Purpose of Notice	Recipients
11/16/2020	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 4
11/20/2020	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

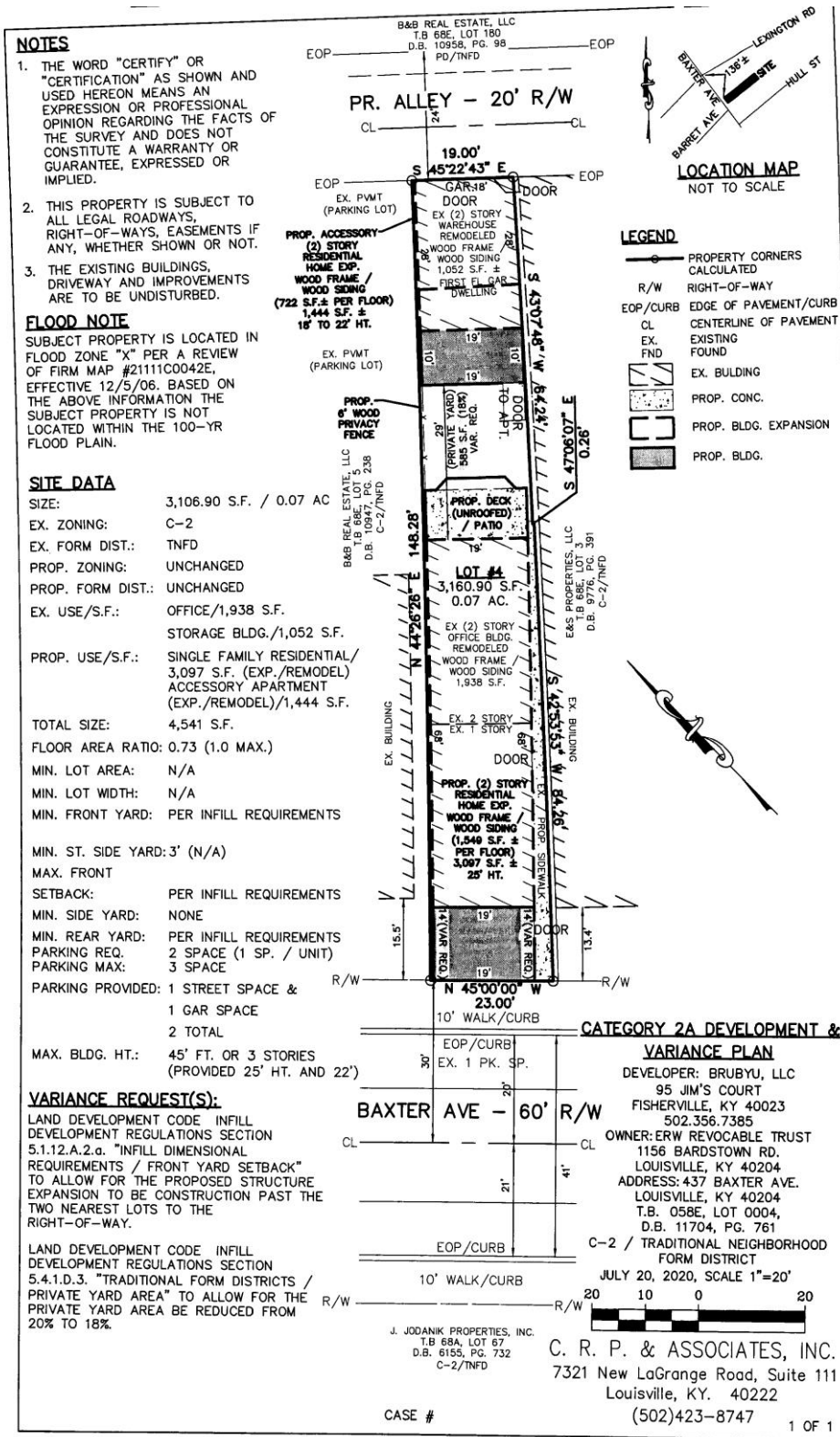
1. Zoning Map



2. Aerial Photograph



3. Site Plan



4. Site Photos



Front of subject property.



Properties to the left.

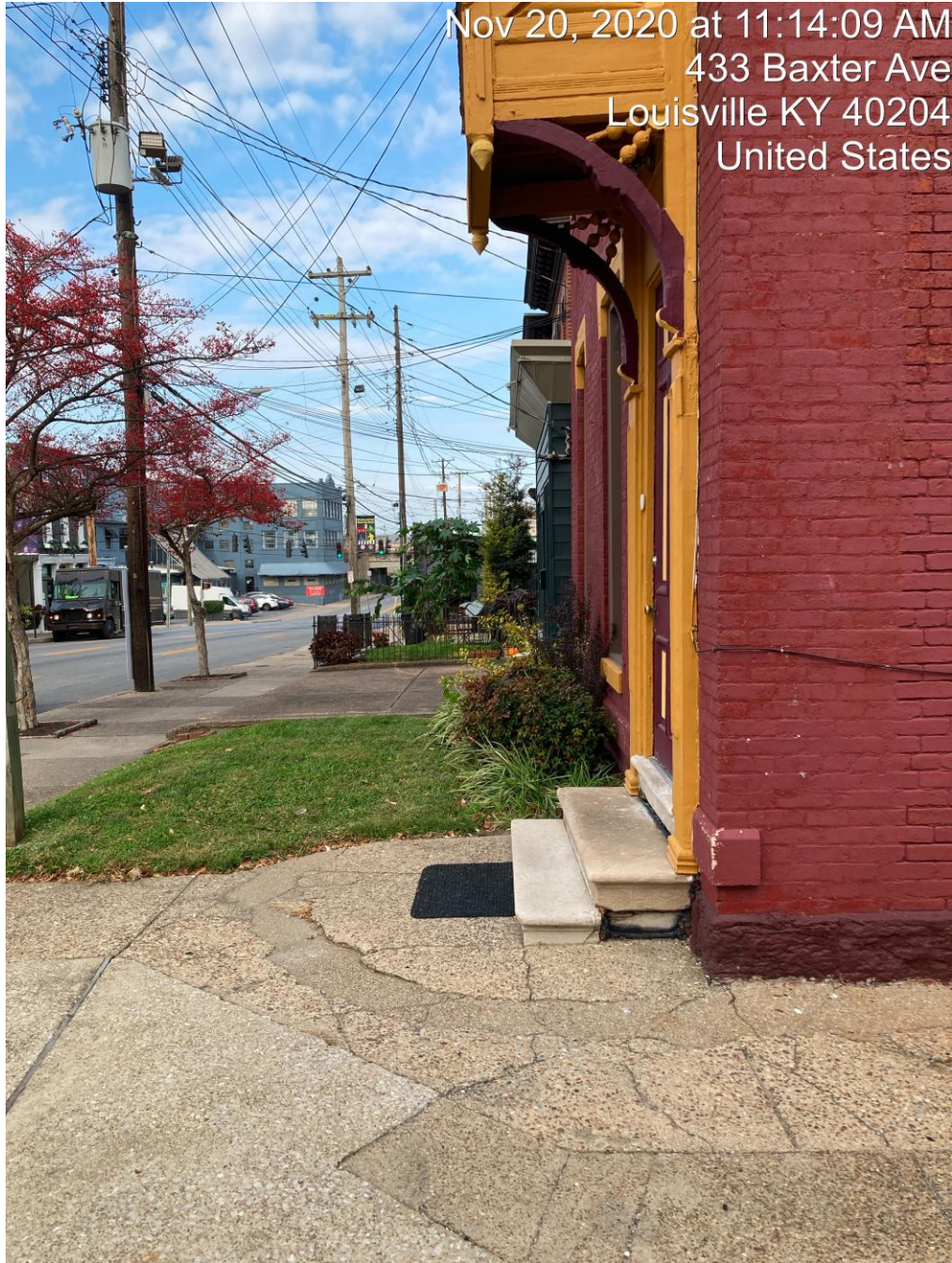
Nov 20, 2020 at 11:12:24 AM
433 Baxter Ave
Louisville KY 40204
United States



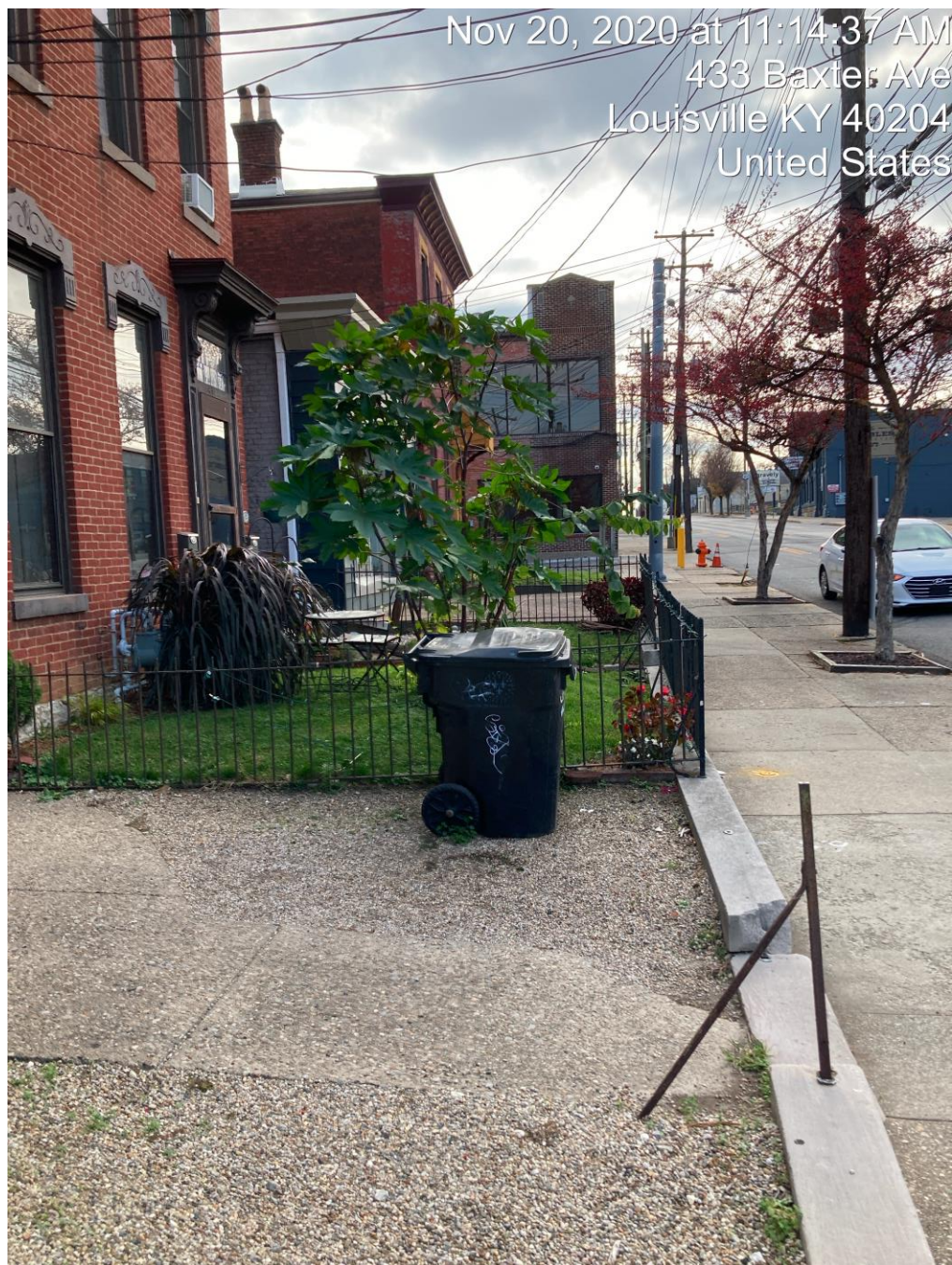
Property to the right.



Property across Baxter Avenue.



Variance area.



Variance area.



Existing accessory structure on the right.

Nov 20, 2020 at 11:17:39 AM
433 Baxter Ave
Louisville KY 40204
United States



Private yard area on the other side of the fence.

Nov 20, 2020 at 11:18:17 AM
433 Baxter Ave
Louisville KY 40204
United States



Existing accessory structure.