

**Board of Zoning Adjustment**  
**Staff Report**  
January 11, 2021



<b>Case No:</b>	20-VARIANCE-0155
<b>Project Name:</b>	Shelby Parkway Variance
<b>Location:</b>	714 Shelby Parkway
<b>Owner:</b>	S&S Investments of Kentucky, Inc.
<b>Applicant:</b>	Terrell Harris – TL Harris Construction
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	4 – Barbara Sexton Smith
<b>Case Manager:</b>	Zach Schwager, Planner I

**REQUESTS:**

**Variance** from Land Development Code section 5.1.10.F to allow a second story addition to an existing structure to encroach into the required side yard setbacks.

Location	Requirement	Request	Variance
West Side Yard	2.5 ft.	0.2 ft.	2.3 ft.
East Side Yard	2.5 ft.	2 ft.	0.5 ft.

**CASE SUMMARY/BACKGROUND**

The subject property is zoned R-6 Residential Multi-Family in the Traditional Neighborhood Form District. It is a single-family structure located in the Shelby Park neighborhood on the south side of Shelby Parkway in between S. Clay Street and S. Shelby Street. The applicant has added onto an existing second story addition that encroaches into the side yard setbacks the same distance as the existing structure. As of the publishing date of this report, the applicant has yet to provide a letter from the adjoining property owner to the west allowing access to their property for construction and maintenance purposes.

The subject property is 25 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 setbacks are therefore 2.5 feet.

**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 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 to the west because construction and maintenance of the structure may require encroachment onto the property.

- (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 there are other two-story structures on the block.

- (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 addition will be the same distance from the side property lines as the existing structure.

## **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 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 create an unnecessary hardship on the applicant as the proposed addition would be the same distance from the side property lines as the existing structure.

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.

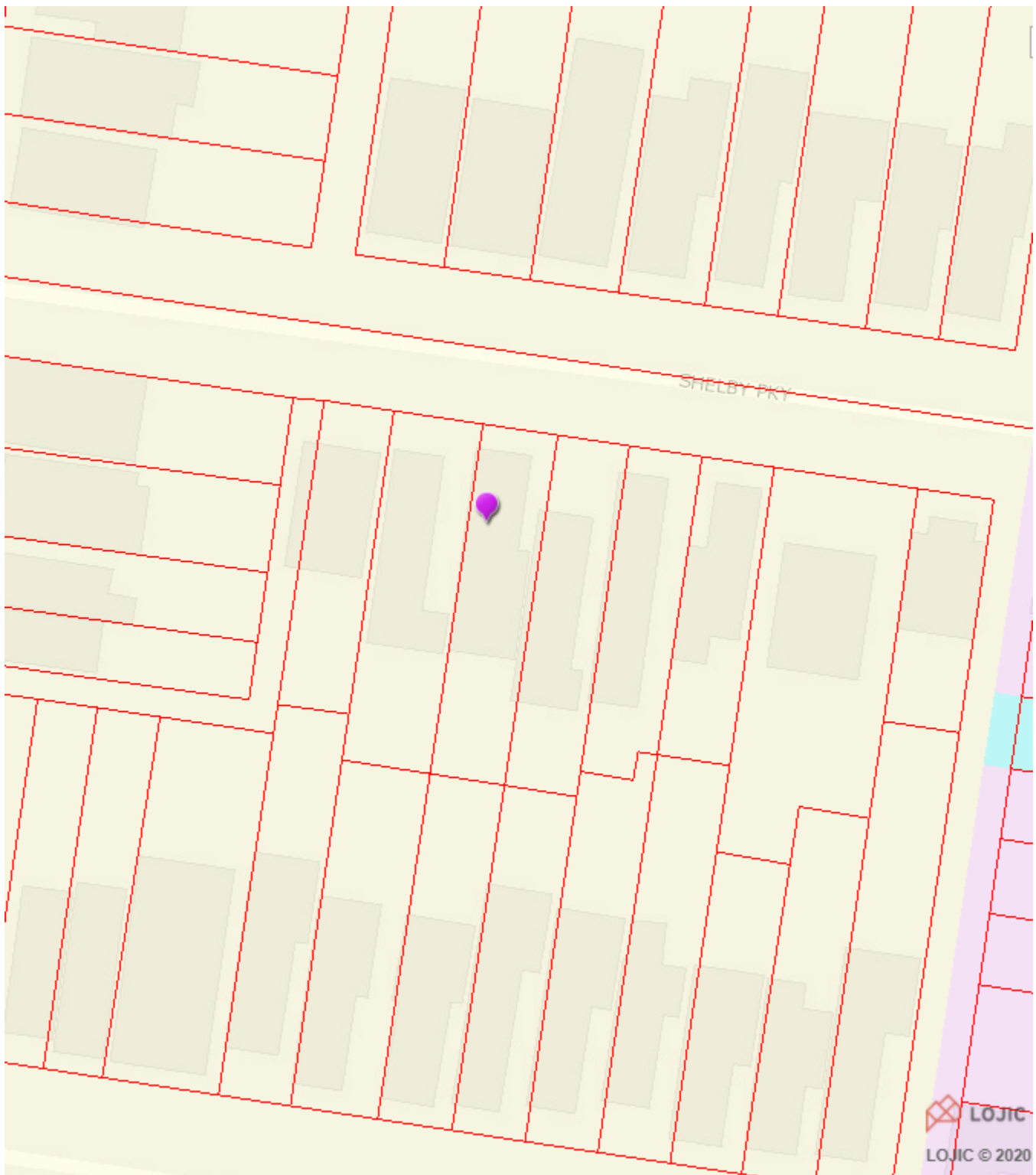
### **NOTIFICATION**

Date	Purpose of Notice	Recipients
12/23/2020	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 4
12/23/2020	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

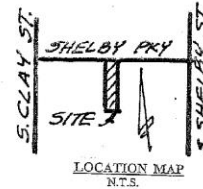


### **3. Site Plan**

NOTES:

The basis of bearing for this survey as North as it was observed in the field July 3rd, 2020 - S. 81° 36' 15" E. Jefferson County, Kentucky.

The tract shown on this plat is subject to all easements and right-of-ways and restrictions, visually apparent and of record.



Lot # 133  
B.&A. LONG  
D.B. 9393, Pg. 314

Lot # 132  
S. SASTRE  
D.B. 11296, Pg. 104

**Lot # 131**  
C.& H. KRAUSE  
D.B. 9183, Pg. 649

Lot # 142  
B. HARPER  
D.B. 9369, Pg. 504

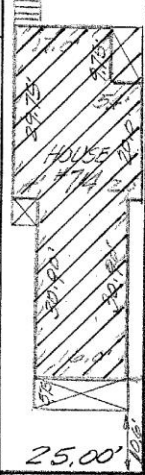
**Lot # 140**  
SANTAL, LLC  
D.B. 10311, Pg. 704

**Tax Lot # 141**  
D.B. 11613, Pg. 219  
3,000 S.F.

N.	81°36'15"	W.
	25.00'	

5. 08°46'37"N. 120.00'

N. 08° 46' 37" E., 120.00'



End  
H. WALL

END  
H. WALL

S.  $81^{\circ}36'15''$  E.

714 SHELBY PARKWAY 50' R/W

Per S. 34° 40' 29" W.

## SITE PLAN

**For: S & S Investrment of KY.,Inc.**  
**714 SHELBY PARKWAY**  
**BLOCK 23-E, Lot # 141**  
**D.B. 11613, Pg. 219**  
**Jefferson County, KY**

Scale: 1" = 20' Date: July 3rd, 2020

**C. R. P. & ASSOCIATES, INC.**  
7321 New La Grange Road, Suite 111  
Louisville, KY 40222  
(502) 423-8747

**PLOT PLAN ONLY**  
DO NOT SCALE





#### 4. Site Photos



Front of subject property.



Variance area.





Variance area.



Variance areas from the rear.