

Board of Zoning Adjustment
Staff Report
January 25, 2021



Case No:	20-MVARIANCE-0004
Project Name:	Goss Avenue Modified Variance
Location:	1045 Goss Avenue
Owner:	TenFiftyEight, LLC
Applicant:	Laura Neely – TenFiftyEight, LLC
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
Case Manager:	Zach Schwager, Planner I

REQUESTS:

Variance from Land Development Code table 5.2.2 to allow an addition to existing deck to encroach into the minimum front yard setback.

Location	Requirement	Request	Variance
Minimum Front Yard	15 ft.	5 ft.	10 ft.

CASE SUMMARY/BACKGROUND

The subject property is zoned C-2 Commercial in the Traditional Neighborhood Form District in the Germantown neighborhood. There is a commercial structure and parking located on the subject property, which is on the north side of Goss Avenue in between Krieger Street and Spratt Street. The property was rezoned from C-1 to C-2 Commercial in 2014 and a variance was approved for a 375 sq. ft. deck to encroach into the minimum front yard setback. The applicant is requesting to expand the deck toward the parking lot. As of the date of this report, the applicant is revising the plan to address Transportation Planning comments.

STAFF FINDINGS

Staff finds that the requested modified 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 table 5.2.2 to allow an addition to an existing deck to encroach into the minimum front yard setback.

TECHNICAL REVIEW

Transportation Planning has not concluded their review yet and their comments will be provided on or before the hearing.

INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

RELATED CASES

13ZONE1022 – Change in zoning from C-1 to C-2 Commercial and a variance to allow the deck to encroach into the front yard setback.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM TABLE 5.2.2

- (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 as the deck brings the use closer to the street, which is consistent with other commercial uses in the area. Also, the deck must be constructed to comply with all building codes.

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

STAFF: The deck encroachment will not alter the character of the general vicinity as the deck brings the use closer to the street, which is consistent with other commercial uses in the area.

- (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 deck will be consistent with other outdoor dining areas in the area.

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 front property line as the existing deck and parking requirements will still be met.

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.

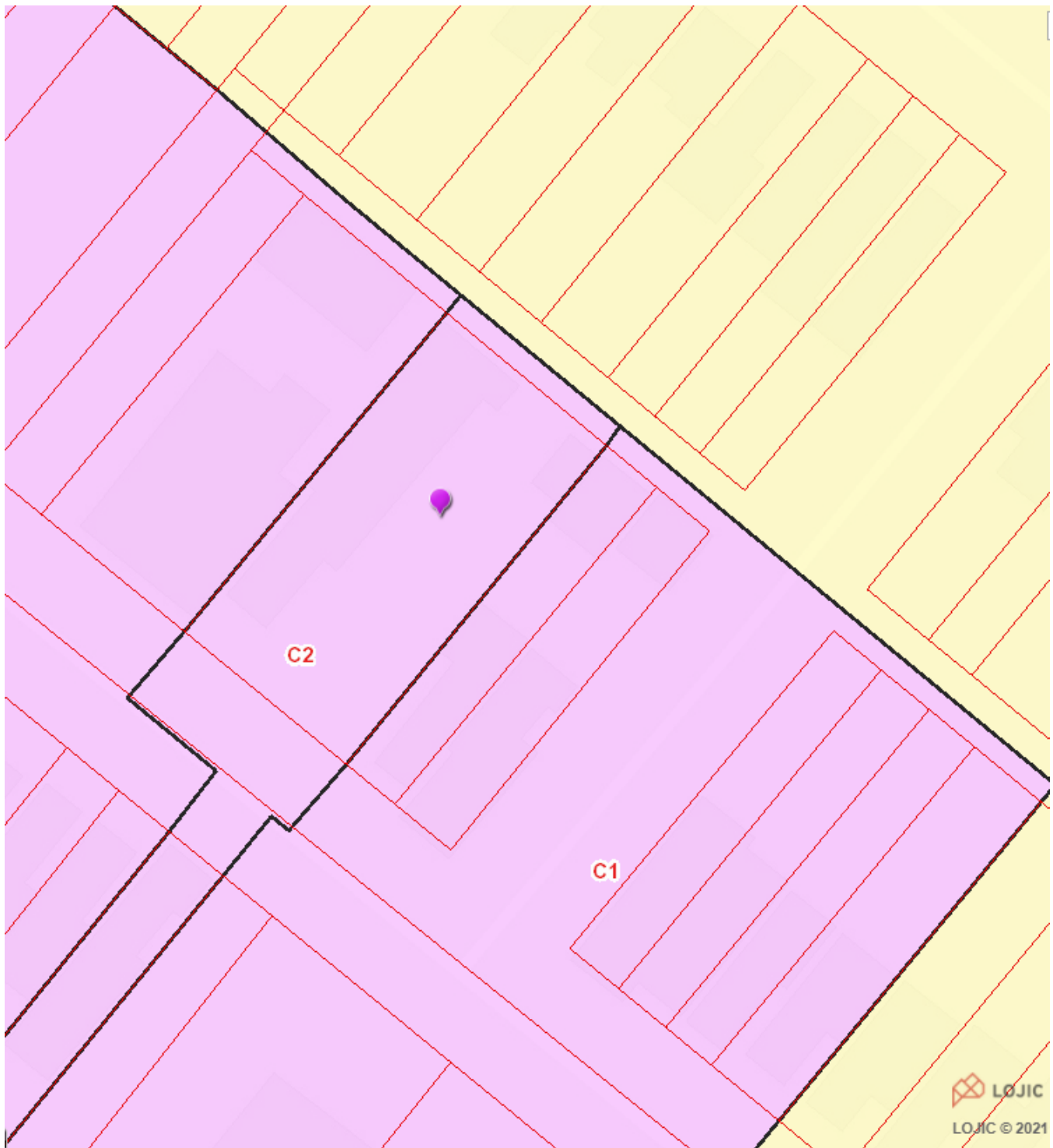
NOTIFICATION

Date	Purpose of Notice	Recipients
1/6/2021	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 10
1/11/2021	Hearing before BOZA	Notice posted on property

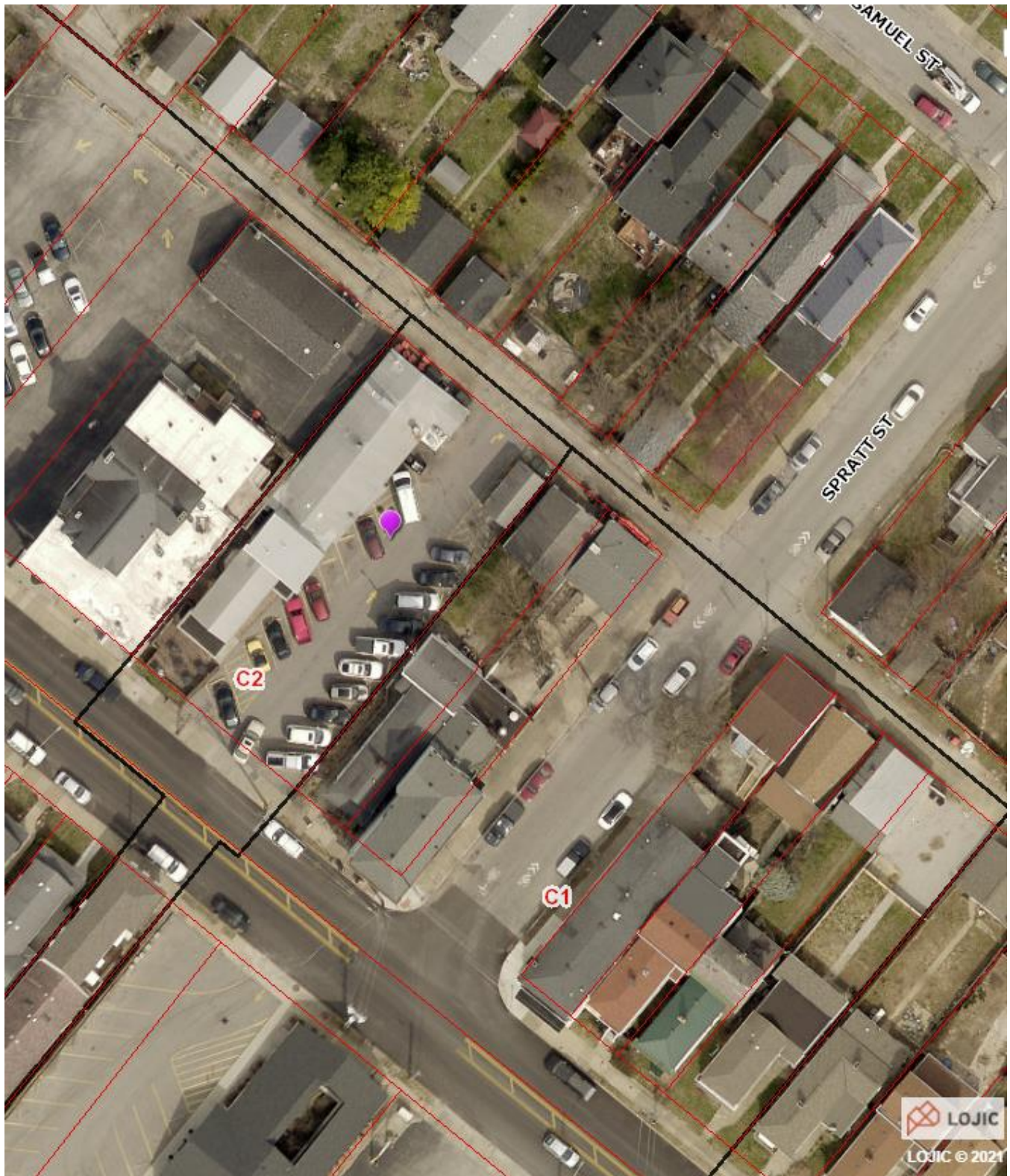
ATTACHMENTS

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

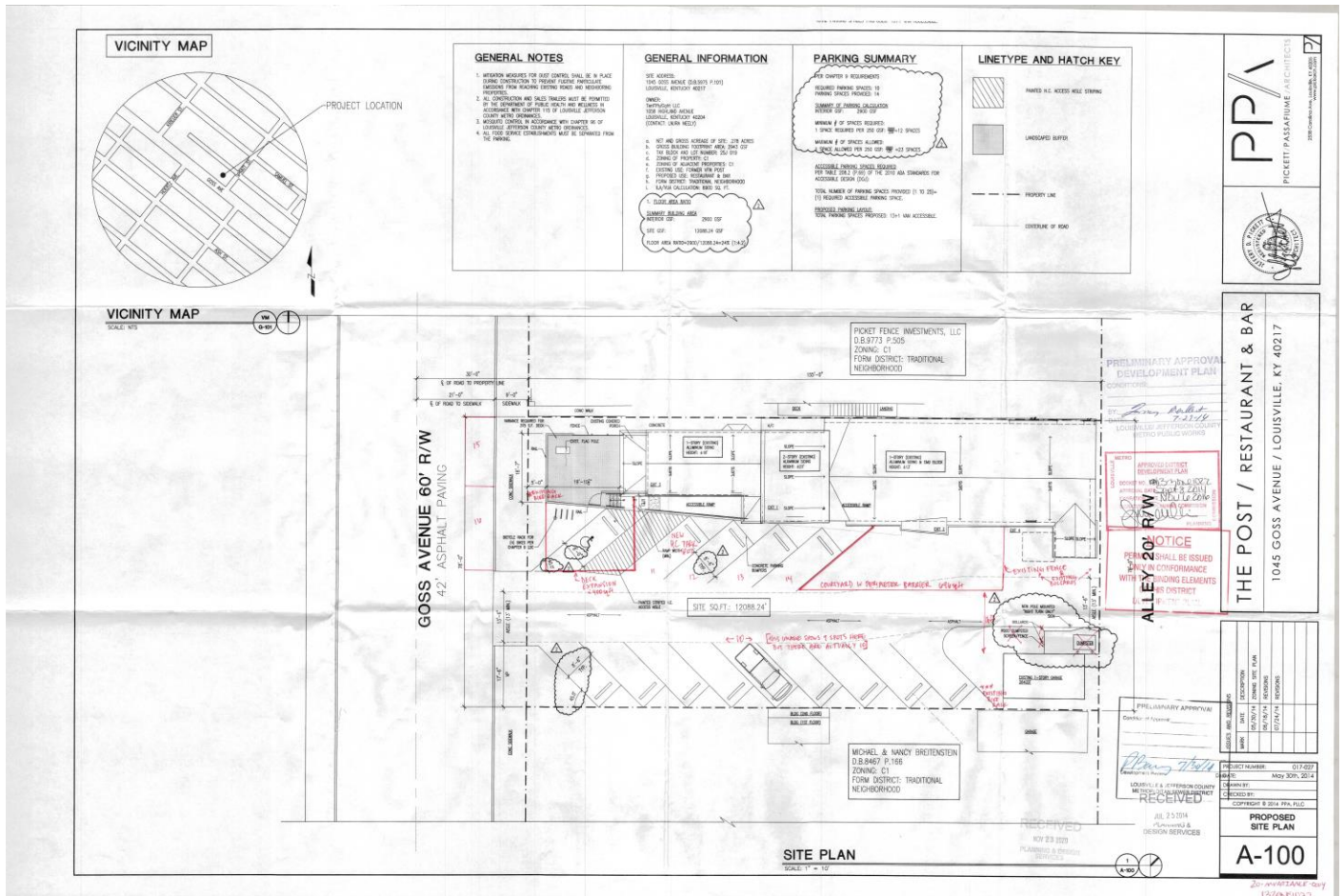
1. Zoning Map



2. Aerial Photograph



3. Site Plan



4. Site Photos



Front of subject property.



Proposed area for deck addition.



Variance area.



Existing deck.



Existing parking.