

Board of Zoning Adjustment

Staff Report

March 1, 2021



Case No: 21-VARIANCE-0007
Project Name: S. 5th Street Variance
Location: 2901 S. 5th Street
Owner: Detrick Houseal – H3 Properties, LLC
Applicant: Charles Podgursky – C.R.P. and Assoc. Inc.
Jurisdiction: Louisville Metro
Council District: 15 – Kevin Triplett
Case Manager: Zach Schwager, Planner I

REQUESTS:

Variance from Land Development Code section 5.1.10.F and table 5.2.2 to allow a principal structure to encroach into the required side and street side yard setbacks

Location	Requirement	Request	Variance
Side Yard	2 ft.	1.65 ft.	0.35 ft.
Street Side Yard	3 ft.	1.6 ft.	1.4 ft.

CASE SUMMARY/BACKGROUND

The subject property is zoned R-6 Residential Multi-Family in the Traditional Neighborhood Form District. It is on the southeast corner at the intersection of S. 5th Street and Iowa Avenue. The site is currently undeveloped but there is a foundation located in the same location as the original. The applicant is proposing to construct a 1 ½ story camelback single-family residence. The proposed structure will encroach into the required side and street side yard setbacks, therefore, a variance is required.

The subject property is 20 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 2 feet.

The applicant has provided staff with signatures from the affected property owner allowing access for construction and maintenance of the proposed structure.

STAFF FINDINGS

Staff finds that the requested variances are adequately justified and meet the standards 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 section 5.1.10.F and table 5.2.2 to allow a principal structure to encroach into the required side and street 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 and 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, because the proposed structure 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 other structures in the area encroach a similar distance into side and street side yard setbacks.

- (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 the same distance from the side and street side property lines as the original 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 structure would be the same distance from the side property lines as the original structure and surrounding structures.

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 has not started construction and is requesting the variance.

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.

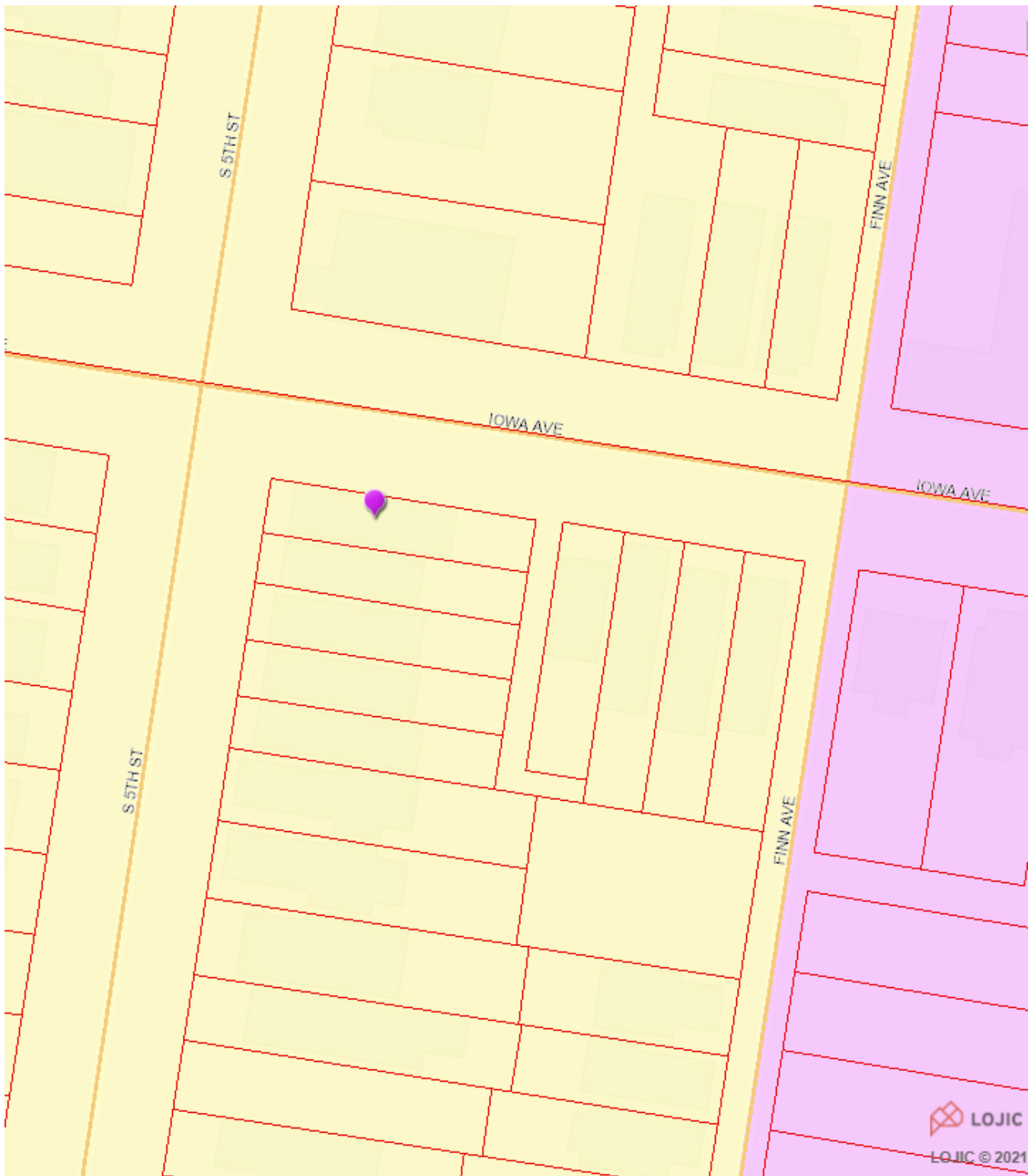
NOTIFICATION

Date	Purpose of Notice	Recipients
2/9/2021	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 15
2/17/2021	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

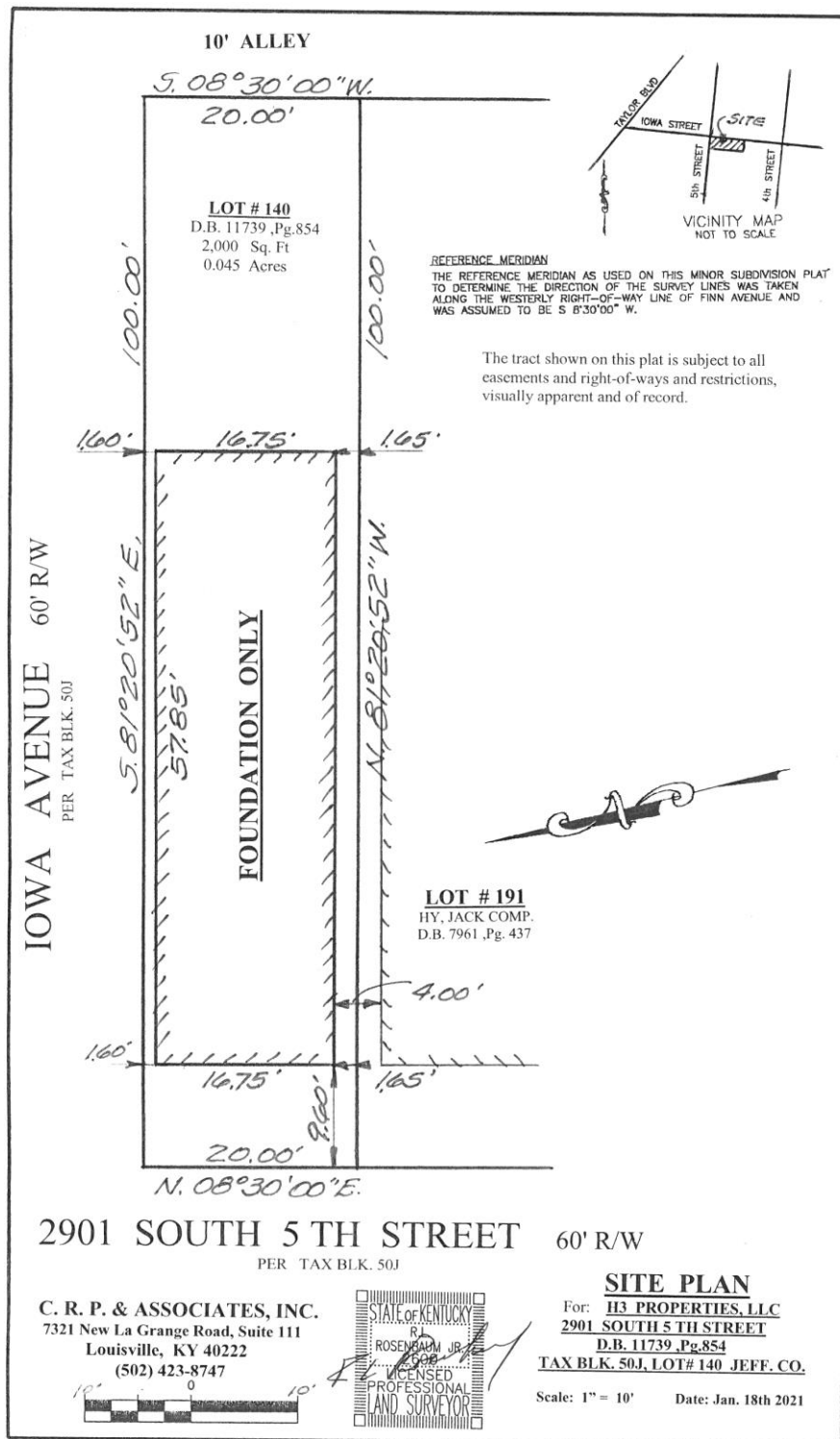
1. Zoning Map



2. Aerial Photograph



3. Site Plan



4. Site Photos



Front of subject property.

February 17, 2021 at 12:09:06 PM



Property to the left across Iowa Avenue.

February 17, 2021 at 12:09:12 PM



Property to the right.



Properties across S. 5th Street.

February 17, 2021 at 12:09:30 PM



Variance area for side yard setback.



Variance area for street side yard setback.