

# Board of Zoning Adjustment

## Staff Report

April 19<sup>th</sup>, 2021



**Case No:** 21-VARIANCE-0027  
**Project Name:** Brighton Drive Variance  
**Location:** 2214 Brighton Drive  
**Owner(s):** Samuel Ewing  
**Applicant:** Anne Del Prince  
**Jurisdiction:** Wellington  
**Council District:** 26 – Brent Ackerson  
**Case Manager:** Rachel Mandell, Planner I

### **REQUEST:**

**Variance** from Land Development Code Table 5.3.1 to allow a principal structure to encroach into the required side yard setback.

Location	Requirement	Request	Variance
Eastern Side Yard	5ft	2ft	3ft

### **CASE SUMMARY/BACKGROUND**

The subject site is zoned R-5 Single-family Residential in the Neighborhood Form District. The site is in the Wellington Subdivision and is in the municipality of Wellington. The applicant is proposing a 485 SF addition and 169 SF open deck toward the rear on the Eastern side of the existing structure.

The location of the addition allows the property owner to maintain the existing curb cut and driveway that lead to a detached garage.

The applicant has provided staff with a construction and maintenance plan confirming that the project will not require access to the adjoining neighbor's property.

### **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 Table 5.3.1 to allow a principal structure to encroach into the required side yard setbacks.

### **TECHNICAL REVIEW**

No technical review required.

### **INTERESTED PARTY COMMENTS**

Staff has not received any formal comments.

## **RELATED CASES**

None.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM TABLE 5.3.1**

- (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. The addition is toward the rear of the existing residence and will 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 addition is in the rear yard and is not generally visible from the front façade of the home.

- (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 as the structure is toward the rear of the home and does not result in any changes to shared public areas. Additionally, the new construction will comply with all building codes, including fire 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 there will still be a setback of two feet and the applicant has provided a construction and maintenance plan.

## **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 land in the general vicinity or the same zone.

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 permit the property owner to construct the addition in a way that aligns with the existing layout of the property.

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 prior to beginning 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.

### **ATTACHMENTS**

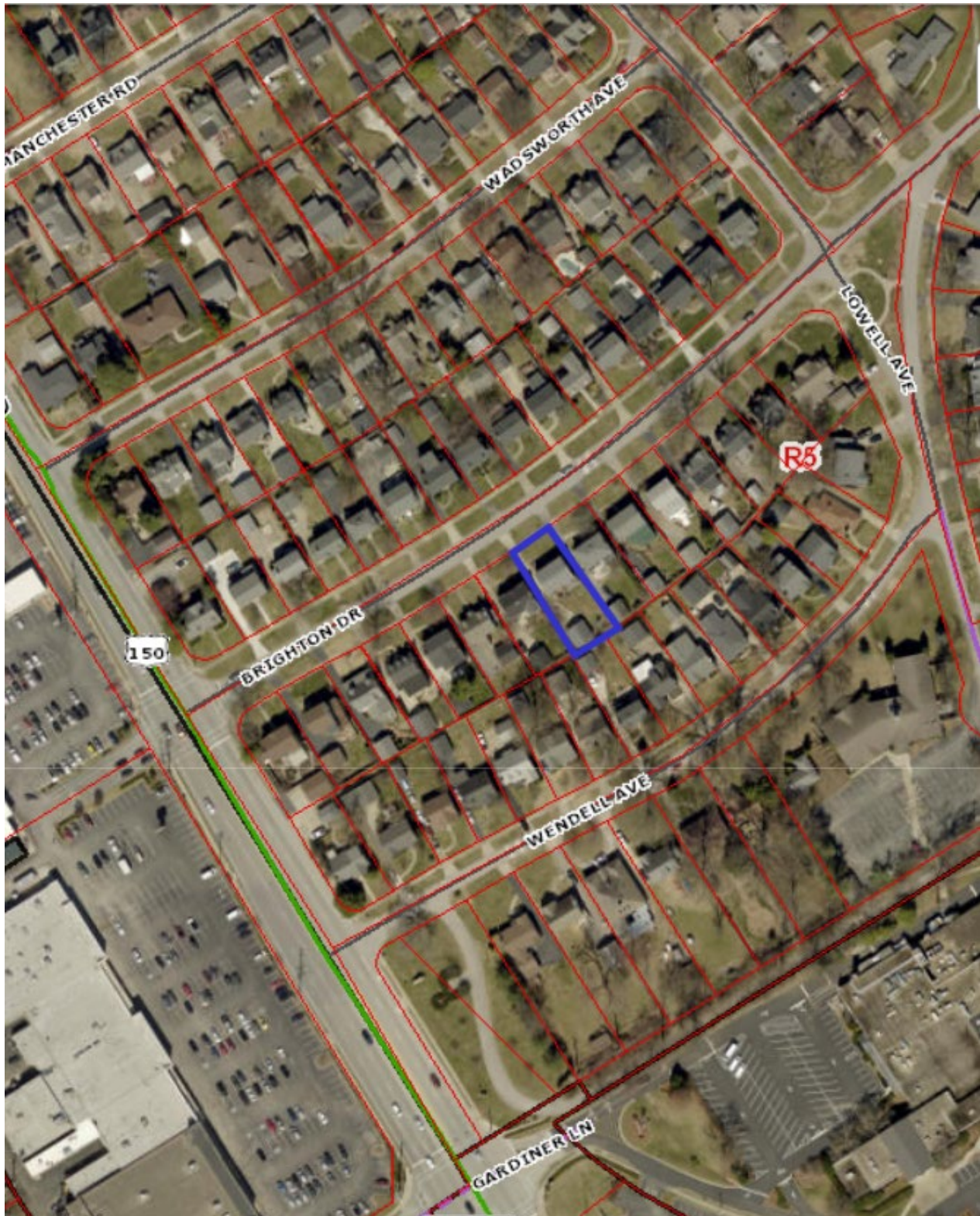
1. Zoning Map
2. Aerial Photograph
3. Site Plan

## Zoning Map





Aerial Photograph



# Site Plan

