

# Board of Zoning Adjustment

## Staff Report

May 3, 2021



**Case No:** 21-MVARIANCE-0002  
**Project Name:** E. Wellington Avenue Modified Variance  
**Location:** 179 E. Wellington Avenue  
**Owner/Applicant:** David Juvrud  
**Jurisdiction:** Louisville Metro  
**Council District:** 21 – Nicole George  
**Case Manager:** Zach Schwager, Planner I

### **REQUESTS:**

**Modified Variance** to allow an addition to an existing accessory structure to encroach into the required rear yard setback.

Location	Requirement	Request	Variance
Rear Yard	5 ft.	2 ft.	3 ft.

### **CASE SUMMARY/BACKGROUND**

The subject property is located on the northwest corner of the intersection of E. Wellington Avenue and Allmond Avenue. The property contains a single-family residence and a detached garage. The Board of Zoning Adjustment approved a variance on July 6, 1992 to permit the garage to encroach into the required rear yard setback. The existing garage is two feet from the rear property line and the applicant is proposing an addition onto the rear that would also be two feet from the rear property line.

### **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 section 5.4.1.E.2 to allow an addition to an existing accessory structure to encroach into the required rear yard setback.

### **TECHNICAL REVIEW**

No technical review required.

### **INTERESTED PARTY COMMENTS**

No interested party comments were received by staff.

## **RELATED CASES**

B-114-92 – Variance to allow an accessory structure to encroach into the rear yard setback.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES FROM SECTION 5.4.1.E.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 existing garage already encroaches into the rear yard setback. The addition would encroach the same distance and would be behind the existing structure.

- (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 allow an unreasonable circumvention of the zoning regulations as the addition would be the same distance from the rear property line as the existing accessory 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 arise from special circumstances which do not generally apply to the land in the general vicinity or the same zone as the subject property is smaller than most 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 not create an unnecessary hardship on the applicant as the proposed addition would be the same distance from the rear property line as the existing garage.

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.

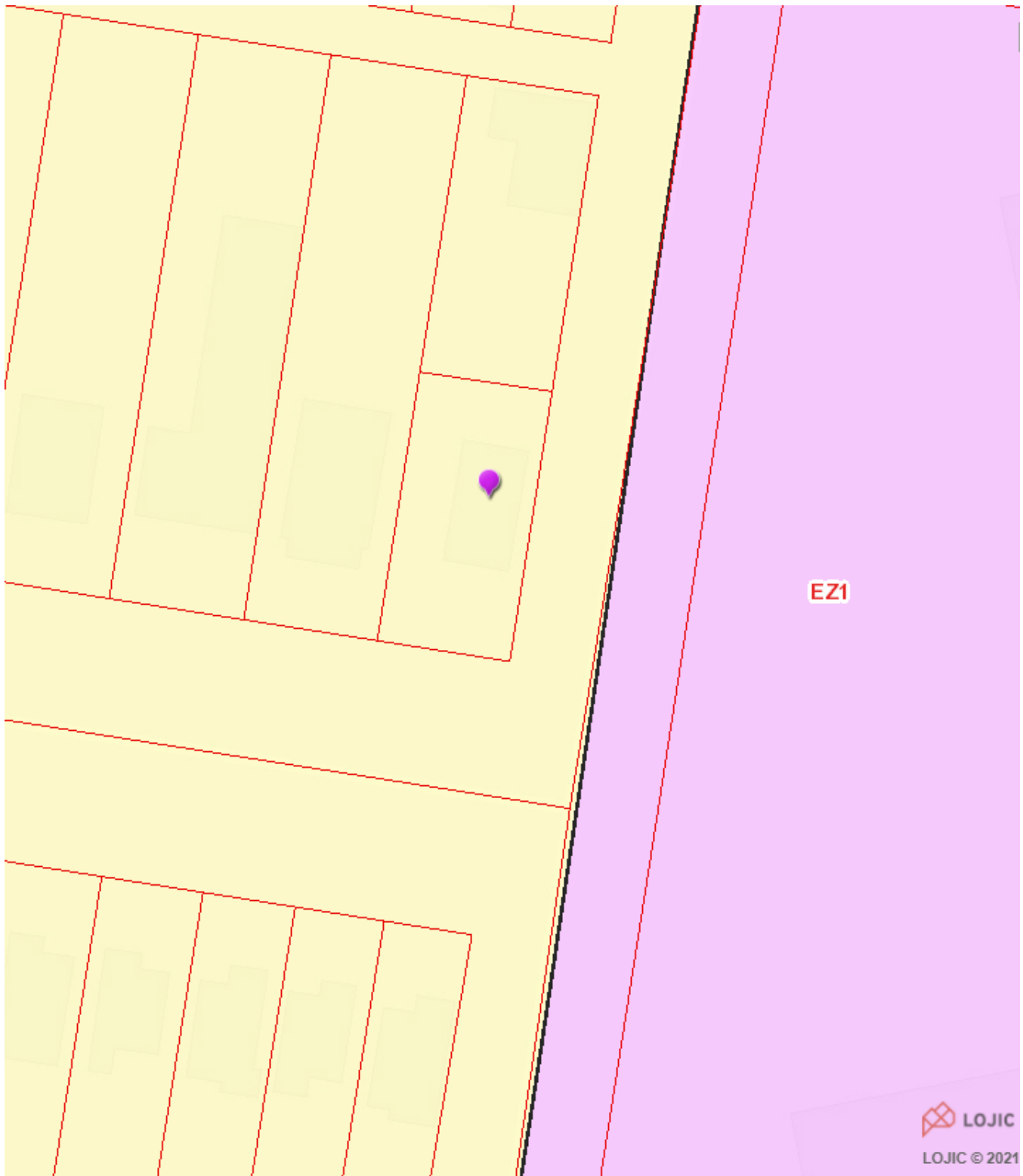
### **NOTIFICATION**

Date	Purpose of Notice	Recipients
4/13/2021	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 21
4/21/2021	Hearing before BOZA	Notice posted on property

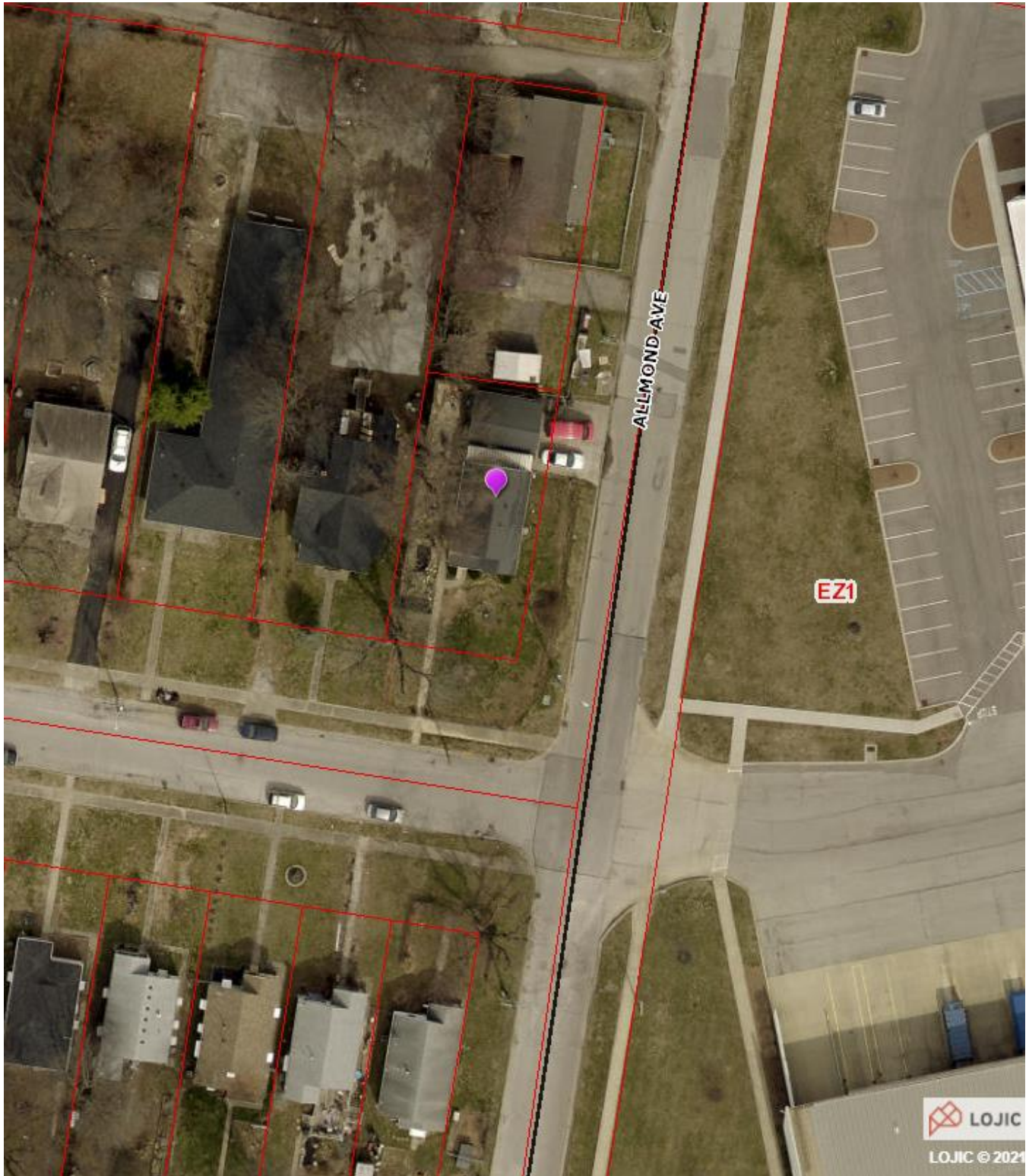
### **ATTACHMENTS**

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

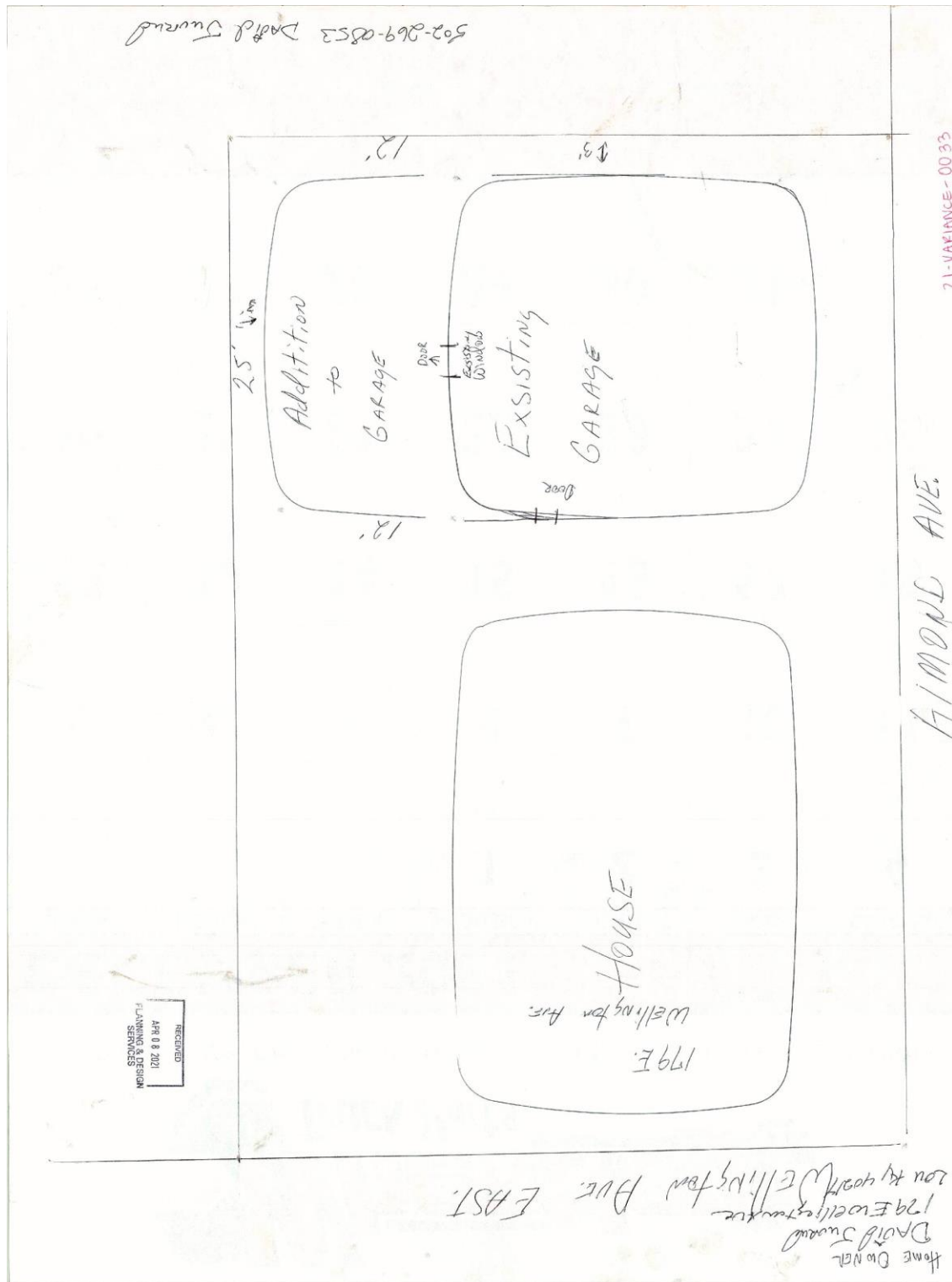
## 1. Zoning Map



## 2. Aerial Photograph



### 3. Site Plan





#### 4. Site Photos



Front of subject property.





Property to the left.





Properties across E. Wellington Avenue.





Existing garage.





Existing setback.





Proposed location of garage addition.