

# Board of Zoning Adjustment

## Staff Report

May 17, 2021



<b>Case No:</b>	21-VARIANCE-0036
<b>Project Name:</b>	Grand Avenue Variance
<b>Location:</b>	2641 Grand Avenue
<b>Owner:</b>	Superior Henderson, LLC
<b>Applicant:</b>	Richard Henderson
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	1 – Jessica Green
<b>Case Manager:</b>	Zach Schwager, Planner I

### REQUESTS:

**Variance** from Land Development Code table 5.2.2 to allow a principal structure to encroach into the required side yard setback.

Location	Requirement	Request	Variance
West Side Yard	3 ft.	0 ft.	3 ft.

### CASE SUMMARY/BACKGROUND

The subject property is zoned R-6 Residential Multi-Family in the Traditional Neighborhood Form District. It is on the north side of Grand Avenue in between S. 28<sup>th</sup> Street and S. 26<sup>th</sup> Street. The applicant removed the existing structure, except for the front porch, and built the new structure on the existing foundation and footprint. The original structure, which had an overhang similar to the new overhang, was set back zero ft. from the side property line.

### 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 table 5.2.2 to allow a principal structure to encroach into the required side yard setback.

### 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 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 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 the new structure was built on the same foundation and footprint as the original structure. Also, the other structures in the area encroach a similar distance into the side yards.

- (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 yard property line 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 general 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 line 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 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 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.

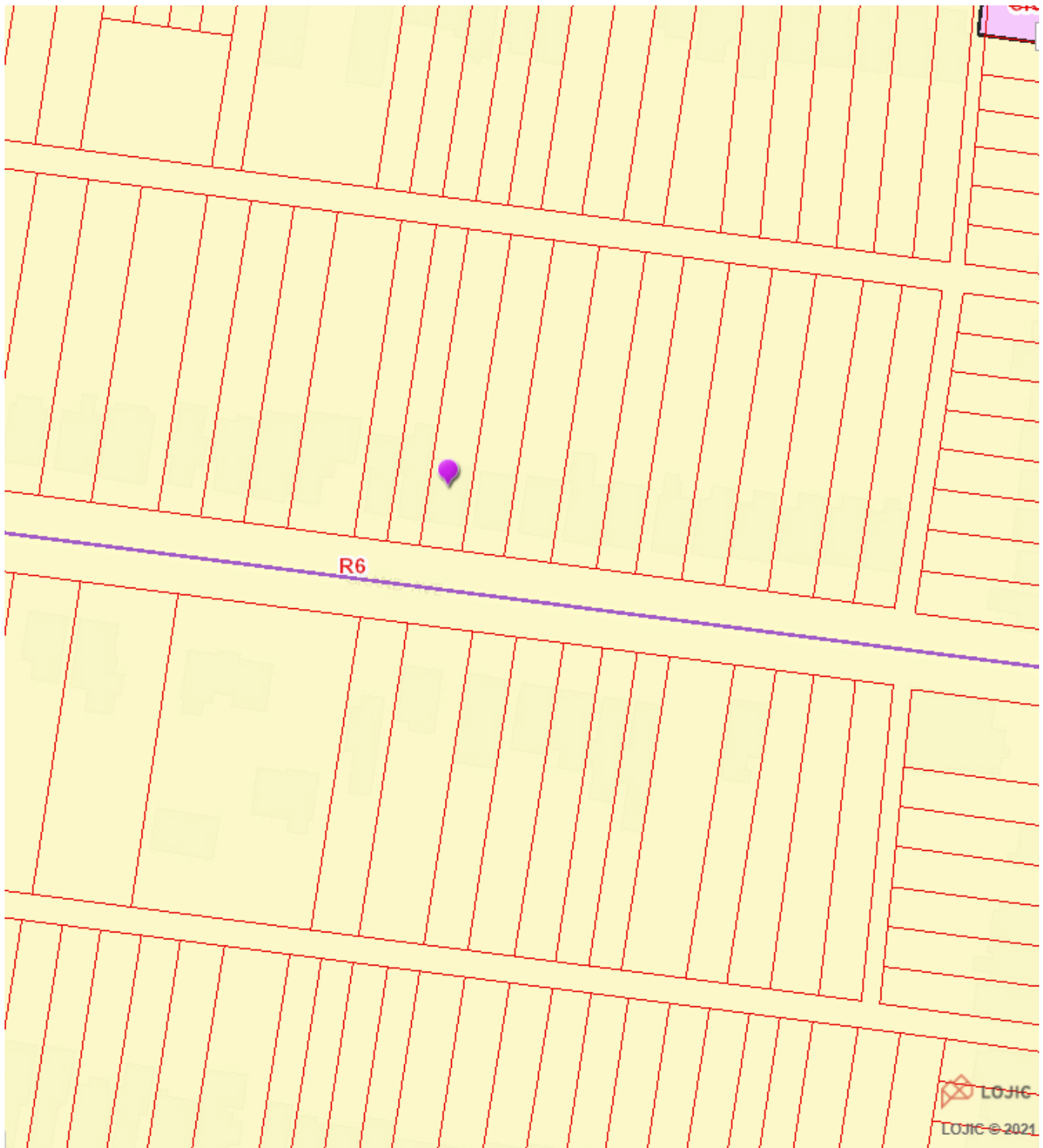
### **NOTIFICATION**

Date	Purpose of Notice	Recipients
4/28/2021	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 1
5/4/2021	Hearing before BOZA	Notice posted on property

### **ATTACHMENTS**

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

## 1. Zoning Map

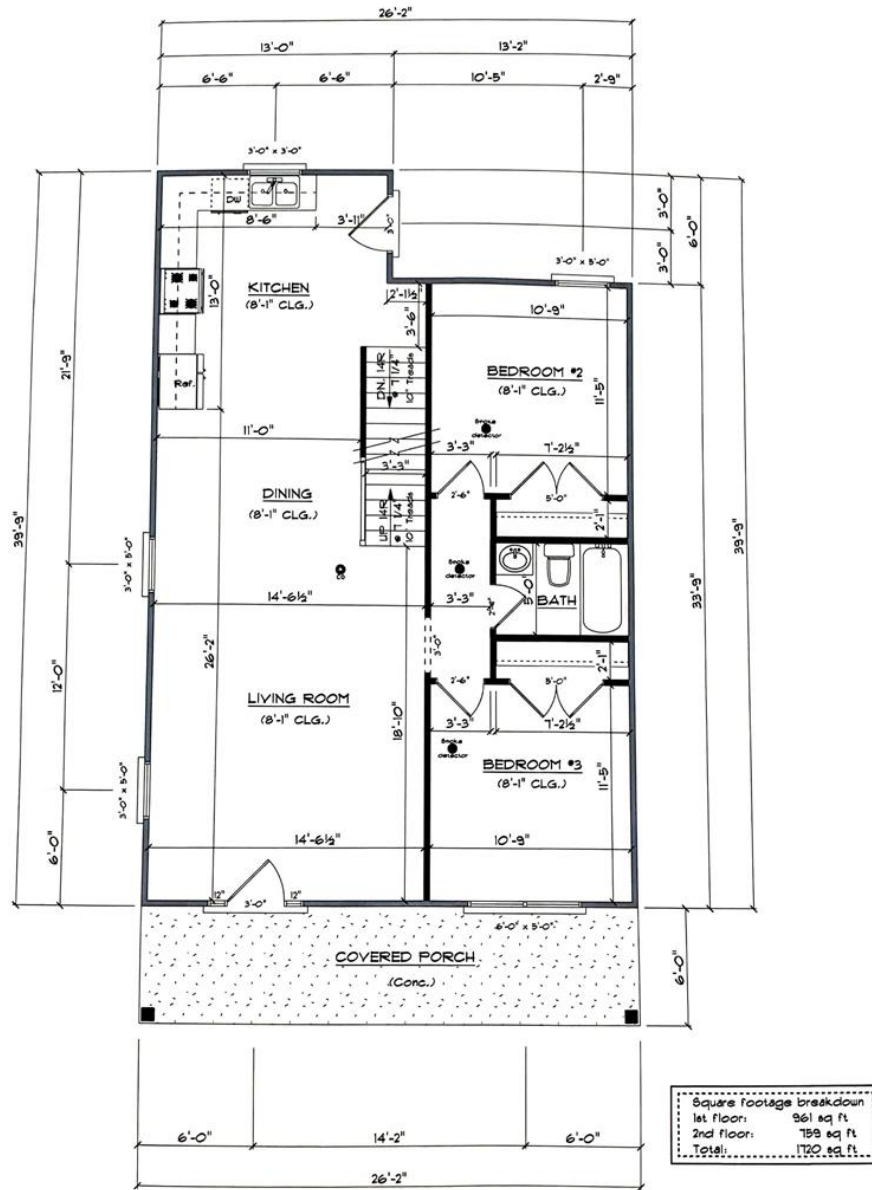


## 2. Aerial Photograph





### 3. Site Plan



**1st FLOOR PLAN**

FOR JAMES HOOTEN

DON UNDERWOOD DESIGN

#### 4. Site Photos



Front of subject property.





Properties across Grand Avenue.





Variance area.



Adjoining property setback.





Setbacks from the rear.