

Board of Zoning Adjustment

Staff Report

June 21, 2021



Case No:	21-VARIANCE-0038
Project Name:	E. Burnett Avenue Variance
Location:	635 E. Burnett Avenue
Owner:	Habitat for Humanity of Metro Louisville
Applicant:	Emma Whitaker – Habitat for Humanity of Metro Louisville
Jurisdiction:	Louisville Metro
Council District:	4 – Jecorey Arthur
Case Manager:	Zach Schwager, Planner I

REQUESTS:

Variance from Land Development Code section 5.1.10.F to allow a new principal structure to encroach into the required side yard setback.

Location	Requirement	Request	Variance
East Side Yard	2 ft. 6 in.	7 in.	1 ft. 11 in.

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 E. Burnett Avenue in between S. Hancock Street and S. Clay Street. The applicant is proposing to construct a single-family residence on the property that will encroach in the required side yard setback on the east side of the property.

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

The subject property is 25 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 setbacks are therefore 2.5 feet.

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 section 5.1.10.F 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

18MINORPLAT1012 – A minor subdivision plat to create two lots from one.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.1.10.F

- (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 structure will have similar setbacks as surrounding properties.

- (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 subject property is only 25 ft. in width.

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 subject property is only 25 ft. in width.

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.

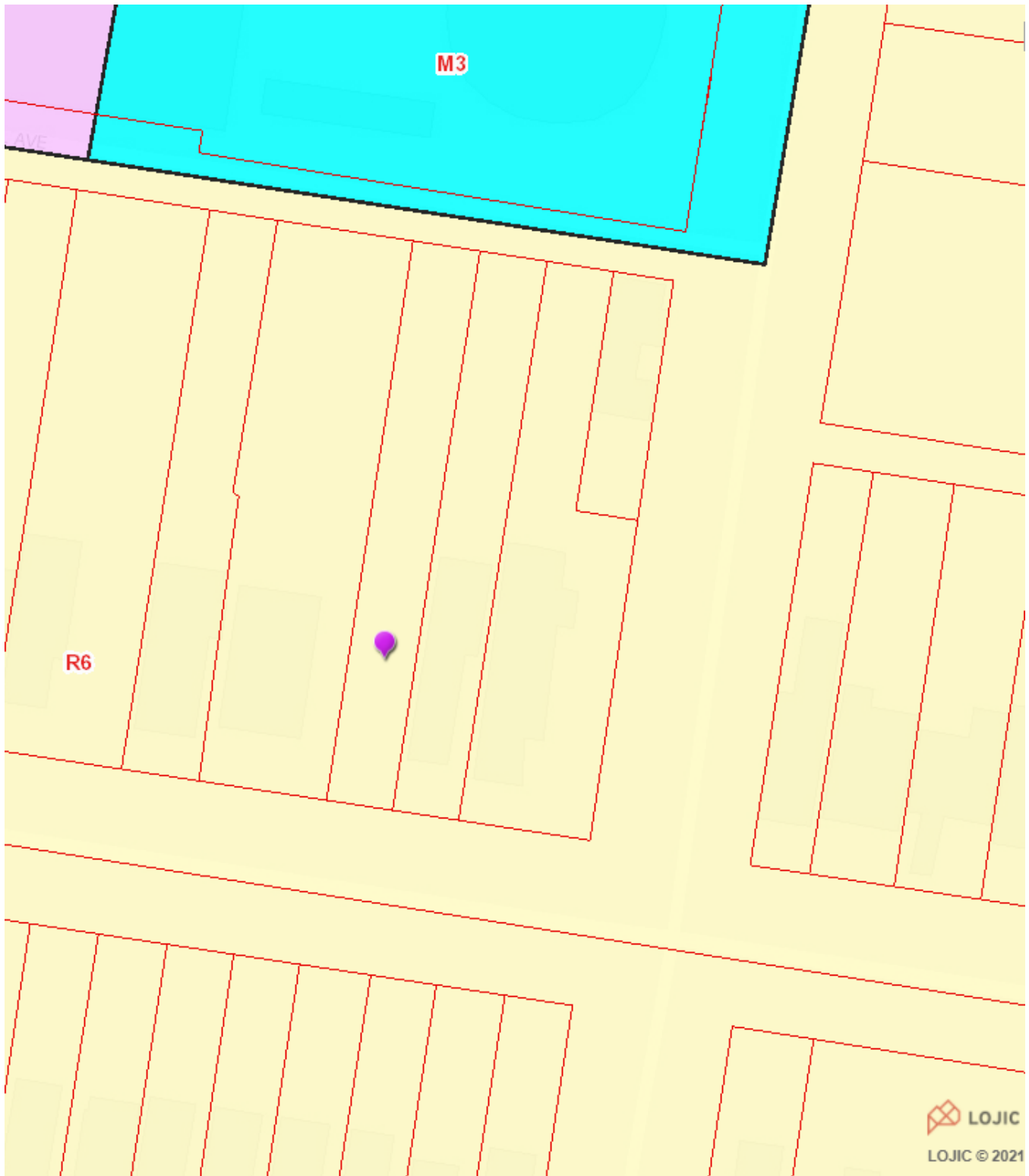
NOTIFICATION

Date	Purpose of Notice	Recipients
6/4/2021	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 4
6/8/2021	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

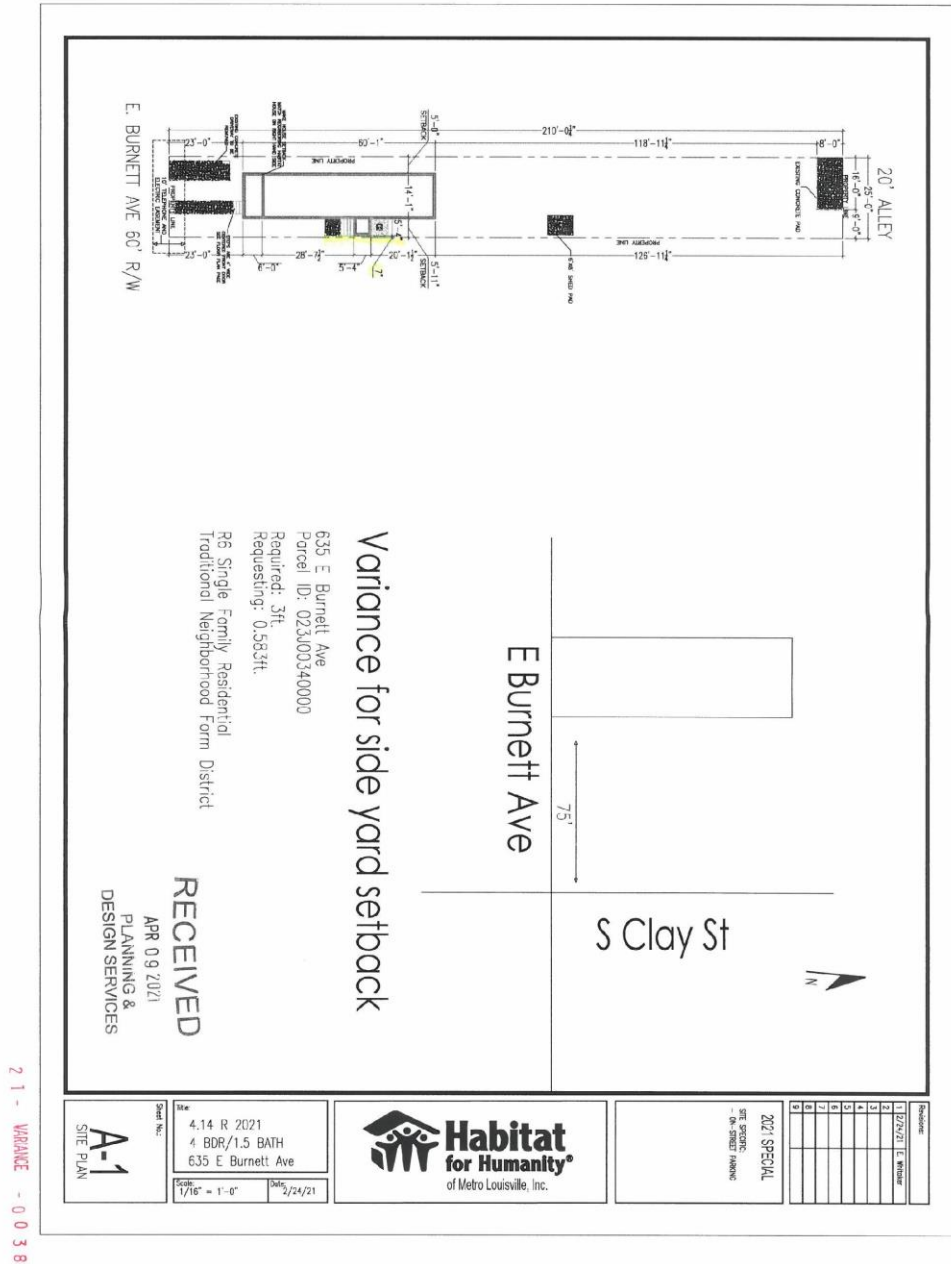
1. Zoning Map



2. Aerial Photograph



3. Site Plan



4. Site Photos



Front of subject property.



Properties across E. Burnett Avenue.



Variance area.



Similar setback on adjoining property to the east.