

# Board of Zoning Adjustment

## Staff Report

August 2, 2021



**Case No:** 21-VARIANCE-0082  
**Project Name:** Washburn Avenue Variance  
**Location:** 500 Washburn Avenue  
**Owner/Applicant:** Elizabeth Crush  
**Jurisdiction:** City of Lyndon  
**Council District:** 7 – Paula McCraney  
**Case Manager:** Zach Schwager, Planner I

### **REQUESTS:**

**Variance** from City of Lyndon Development Code table 5.3.1 to allow an accessory structure to encroach into the required street side yard setback.

Location	Requirement	Request	Variance
Street Side Yard	25 ft.	1 ft. 2 in.	23 ft. 10 in.

### **CASE SUMMARY/BACKGROUND**

The subject property is zoned R-5 Residential Single Family and is in the Neighborhood Form District. It is on the northwestern corner of Washburn Avenue and Florida Avenue in the Warwick Villa subdivision. The site has a one-story single-family residence and a detached garage that both encroach into the street side yard setback. The applicant is proposing to construct a gazebo next to the garage that will encroach into the required street side yard setback.

### **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 City of Lyndon Development Code table 5.3.1 to allow an accessory structure to encroach into the required street 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 5.3.1**

- (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, 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 there are other accessory structures in the area that encroach into the street side yard setback. Also, the subject property has a significant amount of space on the Florida Avenue side that is dedicated to right-of-way and does not provide adequate space to meet the setback requirement.

- (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 has a significant amount of space on the Florida Avenue side that is dedicated to right-of-way and does not provide adequate space to meet the setback requirement.

## **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 lot has a reduced street side yard area compared to surrounding lots.

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 does not have adequate space on the street side to be able to meet the requirement.

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.

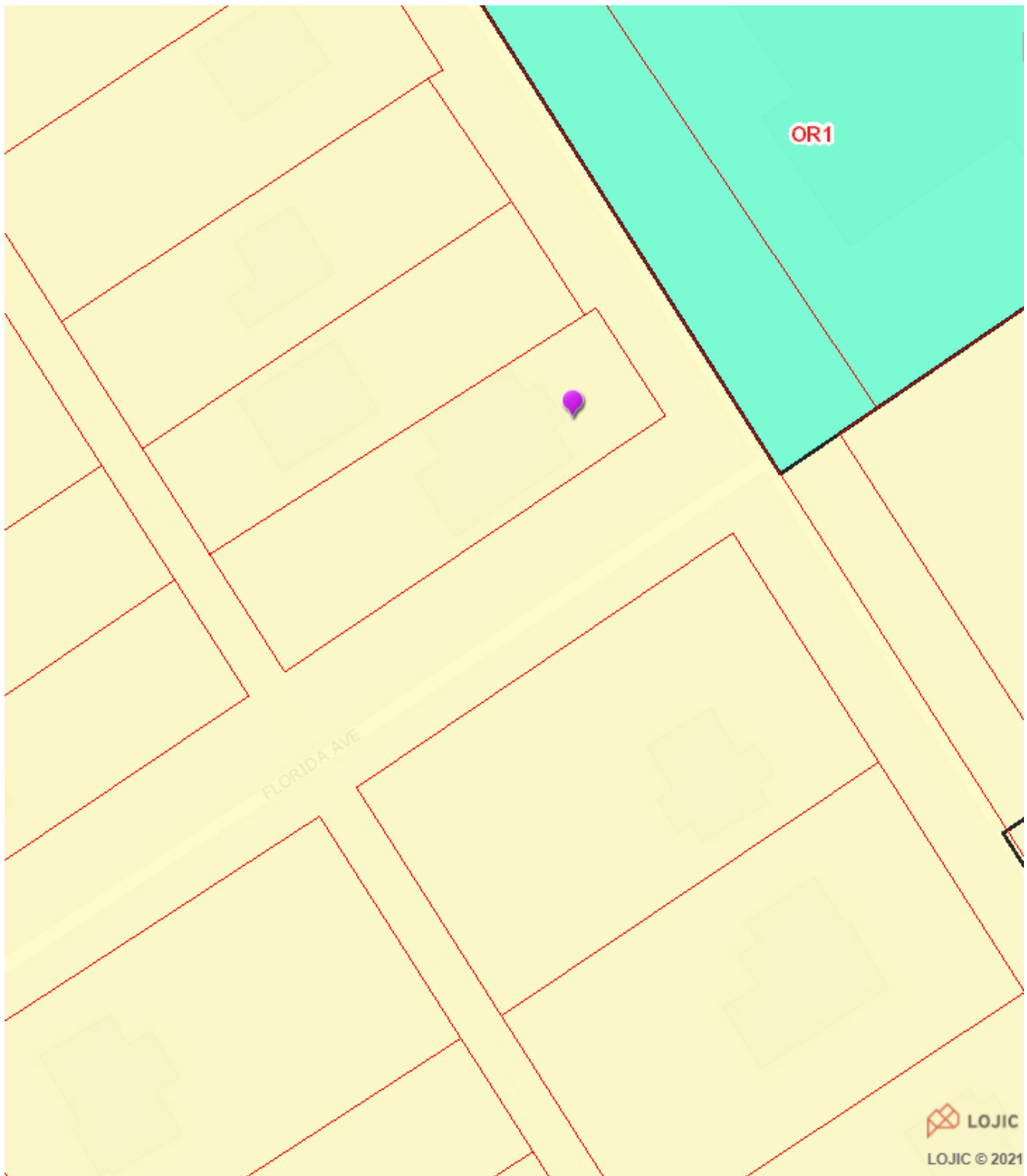
### **NOTIFICATION**

Date	Purpose of Notice	Recipients
7/19/2021	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 7
7/19/2021	Hearing before BOZA	Notice posted on property

### **ATTACHMENTS**

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

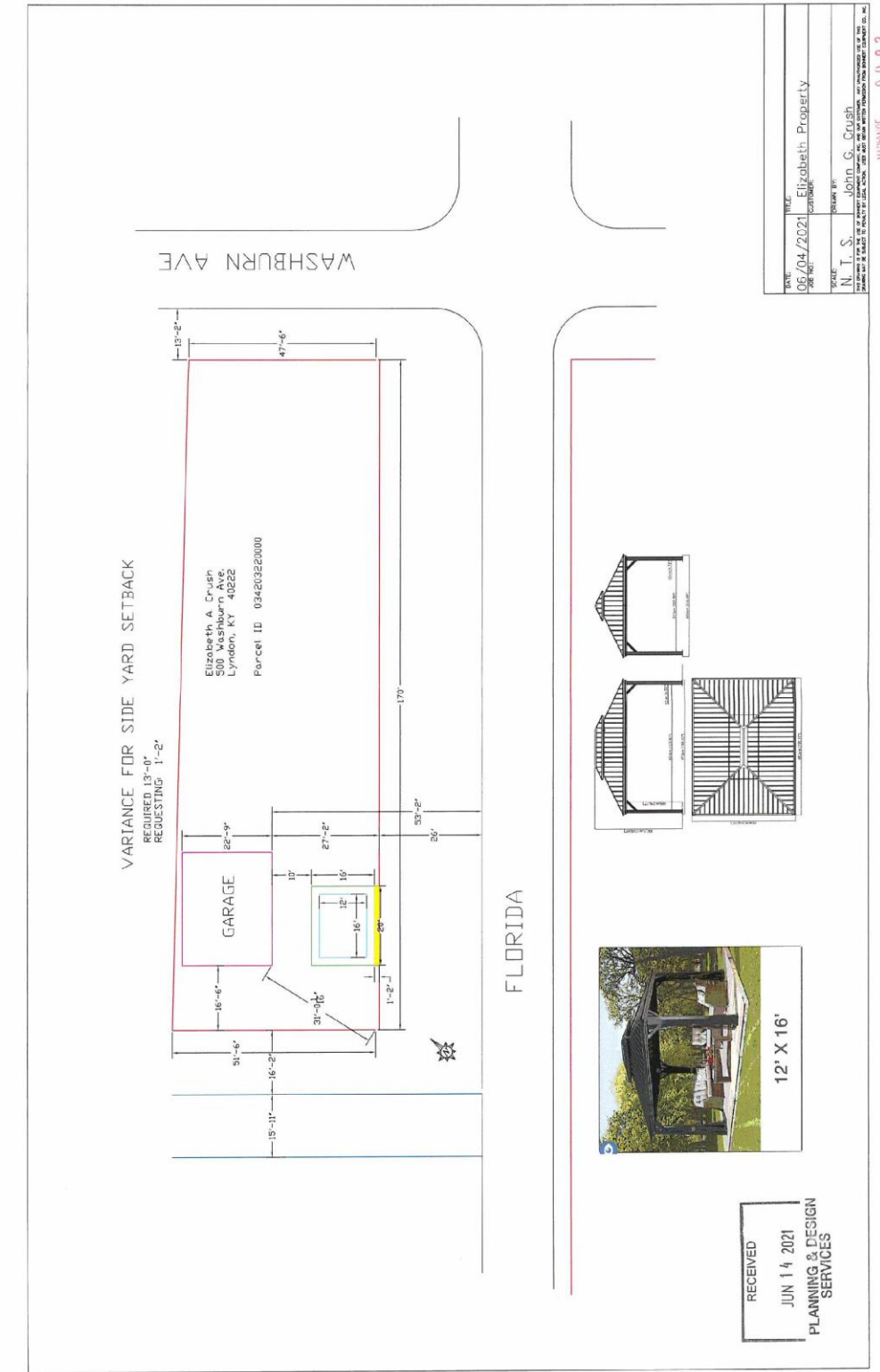
## 1. Zoning Map



## 2. Aerial Photograph



### 3. Site Plan





#### 4. Site Photos



Front of subject property.





Existing street side yard setback.





Existing detached garage setback.





Proposed location of the gazebo.