

Board of Zoning Adjustment
Staff Report
August 30, 2021



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|--------------------------|-------------------------------|
| Case No: | 21-MVARIANCE-0004 |
| Project Name: | Hill Road Modified Variance |
| Location: | 58 Hill Road |
| Owner/Applicant: | Darren Royal & Tisha Davis |
| Jurisdiction: | Louisville Metro |
| Council District: | 8 – Cassie Chambers Armstrong |
| Case Manager: | Zach Schwager, Planner I |

REQUEST:

Modified Variance from Land Development Code section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of the lot.

| Location | Requirement | Request | Variance |
|-------------------|---------------|---------------|---------------|
| Private Yard Area | 6,207 sq. ft. | 4,900 sq. ft. | 1,307 sq. ft. |

CASE SUMMARY/BACKGROUND

The subject site is zoned R-3 Residential Single-Family in the Traditional Neighborhood Form District. It is a single-family structure located in the Castlewood subdivision. The Board of Zoning Adjustment approved a variance on January 25, 2021 to reduce the private yard area to be less than the required 30% of the area of the lot. The applicant proposed to remove the existing detached garage and construct a larger one in the same location. The applicant applied for building permits and MSD informed the applicant that the proposed location was on an easement and it would have to be moved three feet further toward the principal structure. This change requires the variance to be modified.

Staff has received signatures from all adjoining property owners approving of the proposed construction. Therefore, a public hearing is not required.

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 modifying a variance established in the Land Development Code from section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of the lot.

TECHNICAL REVIEW

No technical review required.

INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

RELATED CASES

20-VARIANCE-0170 – Variance to allow a private yard area to be less than the required 30% of the area of the lot.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.4.1.D.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 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 proposed deck will not alter the essential character of the general vicinity as it is going to be built in the same location as the existing garage at the rear of the property.

- (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 there is additional open space at the rear of the lot in the accessory structure area that cannot be included in the calculation. If this area could be counted toward the private yard then a variance would not be required.

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 there is additional open space that cannot be counted toward the private yard area.

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.

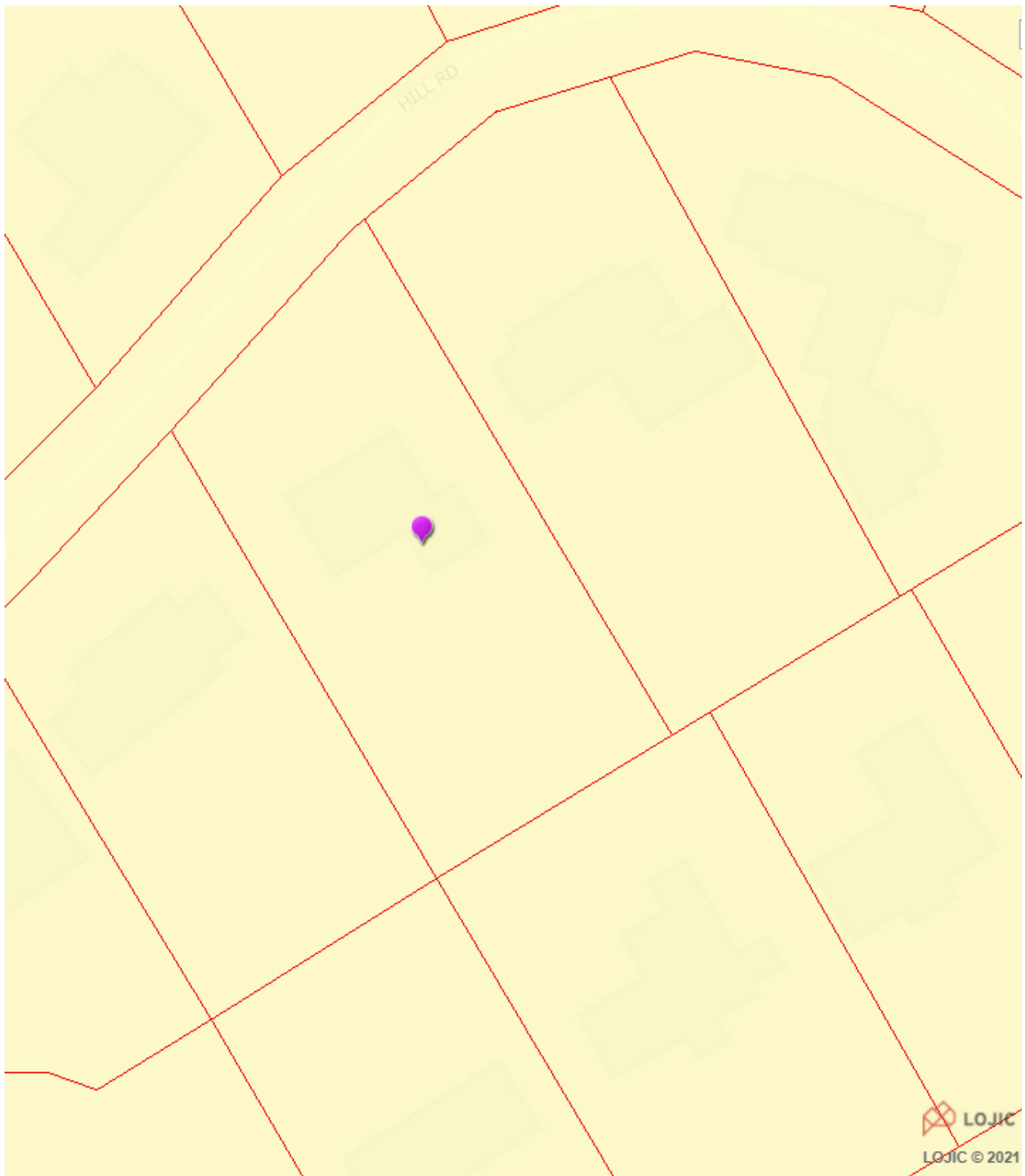
NOTIFICATION

| Date | Purpose of Notice | Recipients |
|------|---------------------|--|
| NA | Hearing before BOZA | 1 st tier adjoining property owners Registered Neighborhood Groups in Council District 8 |
| NA | Hearing before BOZA | Notice posted on property |

ATTACHMENTS

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

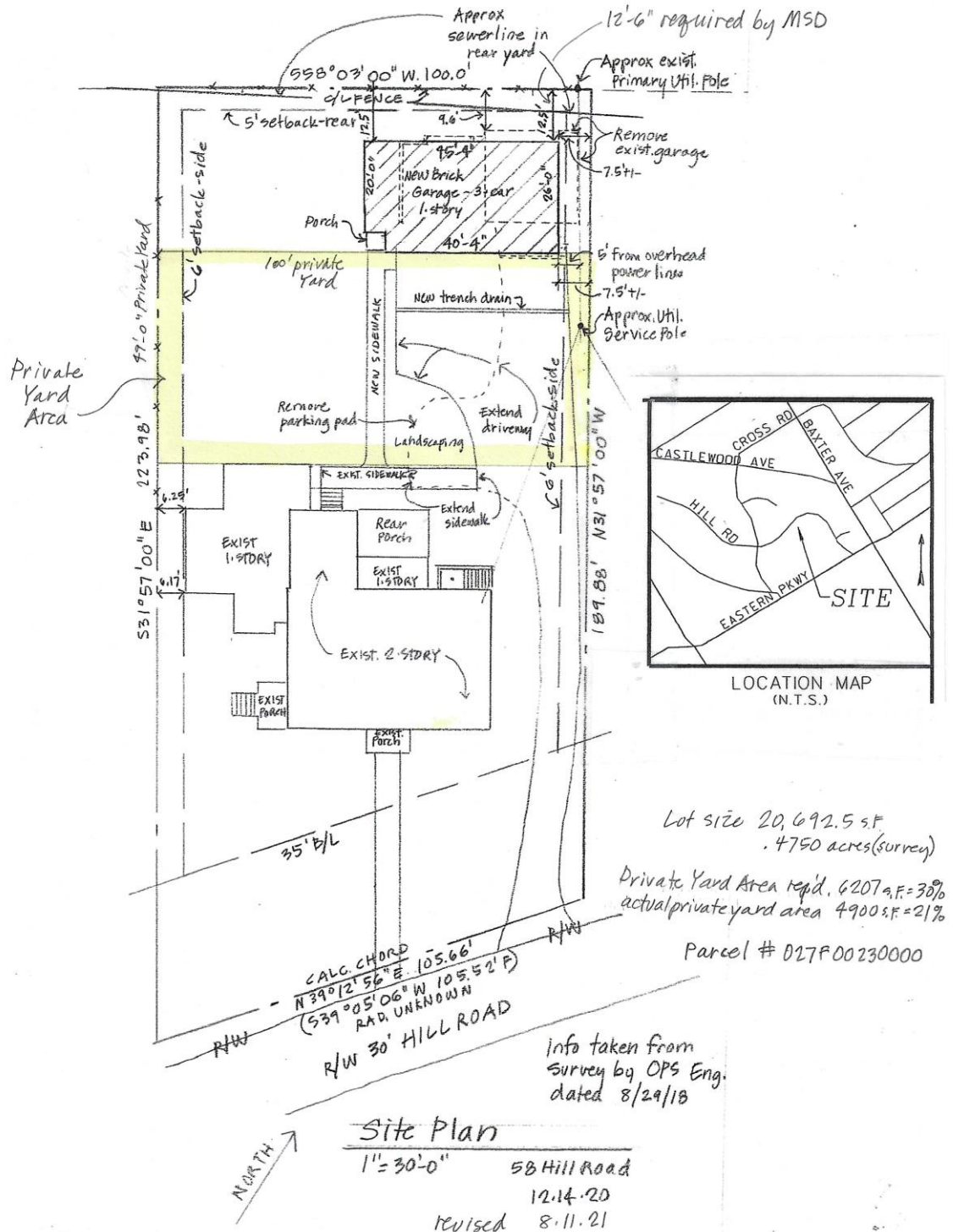
1. Zoning Map



2. Aerial Photograph



3. Site Plan



4. Site Photos



Front of subject property.



Property to the left.



Property to the right.



Existing garage.



Existing private yard area.



Existing private yard area.



Open space that cannot be counted toward private yard area.