

# Board of Zoning Adjustment

## Staff Report

September 13, 2021



<b>Case No:</b>	21-VARIANCE-0101
<b>Project Name:</b>	S. Ewing Avenue Variance
<b>Location:</b>	318 S. Ewing Avenue
<b>Owner:</b>	Jade Ashley
<b>Applicant:</b>	Charlie Williams – Charlie Williams Design
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	9 – Bill Hollander
<b>Case Manager:</b>	Zach Schwager, Planner I

### REQUESTS:

**Variance** from Land Development Code sections 5.4.1.D.2 to allow the private yard area to be less than the required 30% of the area of the lot and 5.4.1.E.1 to allow the accessory structure use area to exceed a depth of 60 ft.

Location	Requirement	Request	Variance
Private Yard Area	16,668.16 sq. ft.	5,000.448 sq. ft.	11,667.712 sq. ft.
Accessory Structure Area	60 ft.	78.72 ft.	18.72 ft.

### CASE SUMMARY/BACKGROUND

The subject property is zoned R-3 Residential Single-Family and R-5B Residential Two-Family and is in the Traditional Neighborhood Form District. It is on the west side of S. Ewing Avenue south of Payne Street in the Clifton neighborhood and local preservation district. The site has a 1 ½ story single-family residence and the applicant is proposing to construct an attached garage on the side of the existing structure.

The Clifton Architectural Review Committee approved the garage on condition under case number 21-COA-0025 on July 7, 2021. Planning & Design Staff does not have any recommended conditions.

### 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 Land Development Code sections 5.4.1.D.2 to allow the private yard area to be less than the required 30% of the area of the lot and 5.4.1.E.1 to allow the accessory structure use area to exceed a depth of 60 ft.

### TECHNICAL REVIEW

No technical review required.

## **INTERESTED PARTY COMMENTS**

No interested party comments were received by staff.

## **RELATED CASES**

21-COA-0025 – Certificate of Appropriateness for the proposed garage.

## **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 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 Clifton Architectural Review Committee approved the 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 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 significant open space to the rear of the proposed accessory structure that cannot be included in the private yard area calculation. The lot is 300 ft. +/- in depth so moving the structure further back would be unreasonable.

## **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 is 300 ft. deep and there is no alley access due to the topography of the lot.

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 a significant distance from the principal structure in order 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.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.4.1.E.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 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.

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### **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.

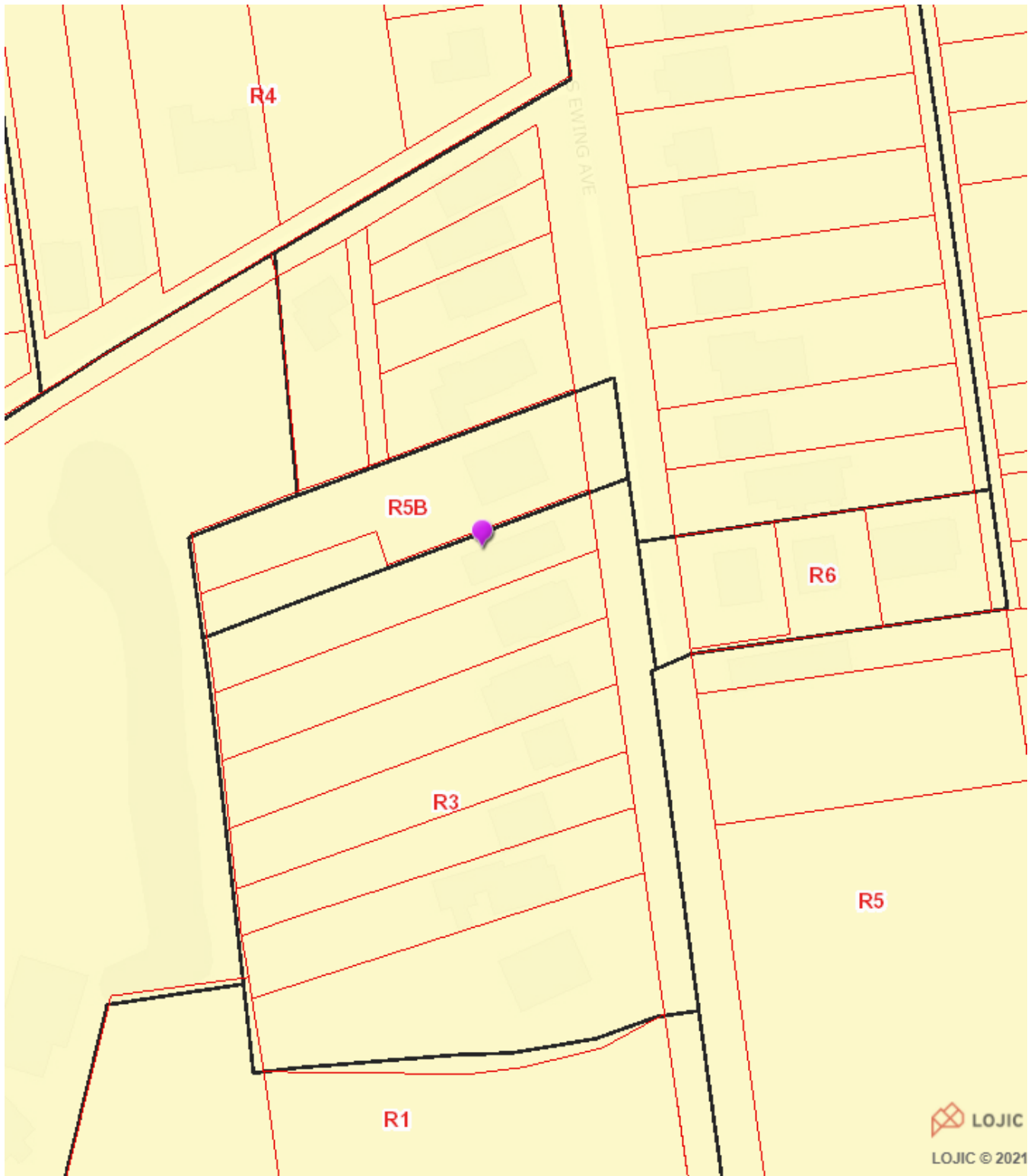
### **NOTIFICATION**

Date	Purpose of Notice	Recipients
8/25/2021	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 9
8/27/2021	Hearing before BOZA	Notice posted on property

### **ATTACHMENTS**

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

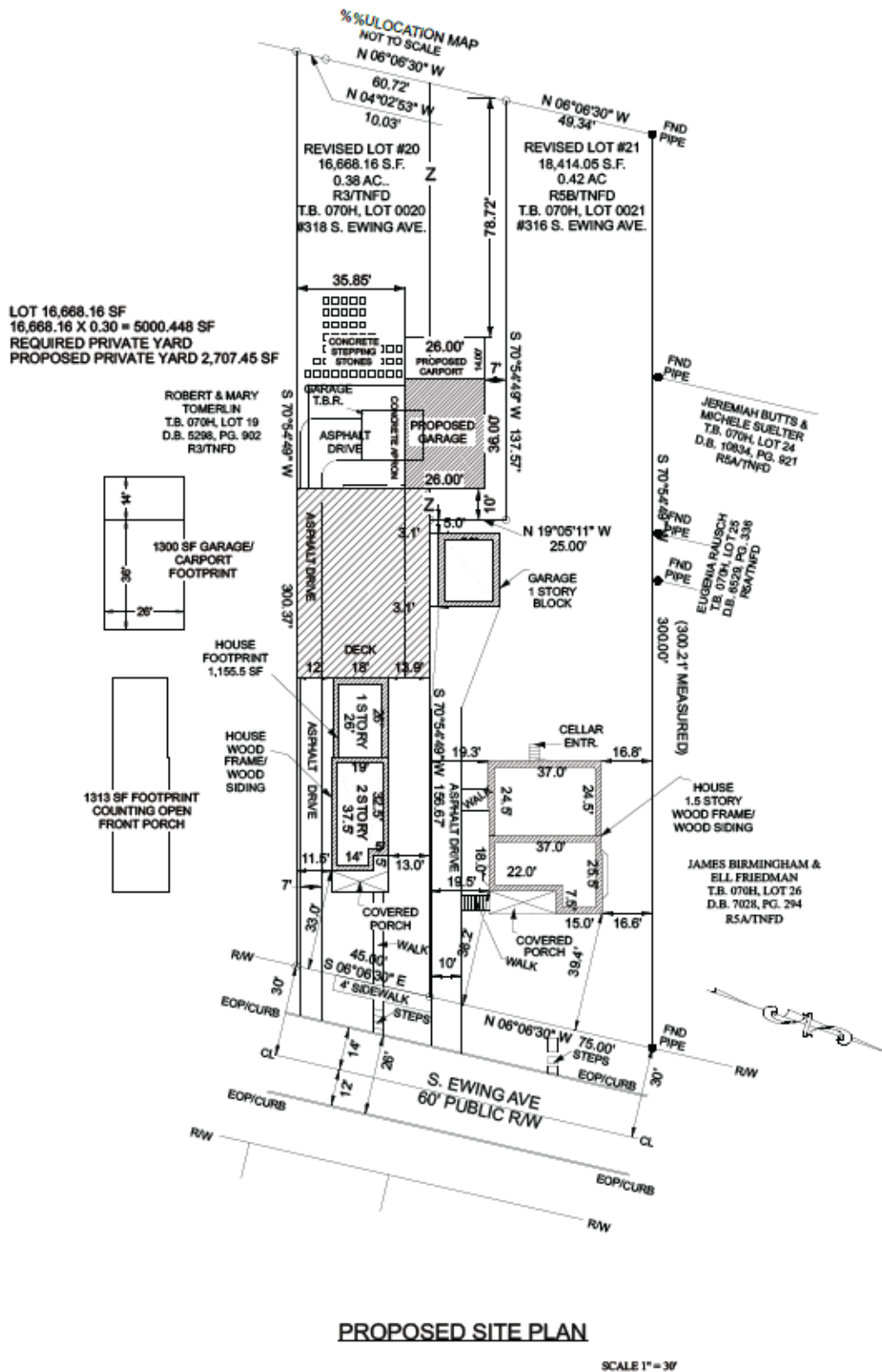
## 1. Zoning Map



## 2. Aerial Photograph



### 3. Site Plan



#### 4. Site Photos



Front of subject property.



Existing driveway.



Existing garage to be removed.



Location of proposed accessory structure.



Private yard area.



Accessory structure depth area.