

# Board of Zoning Adjustment

## Staff Report

September 13, 2021



<b>Case No:</b>	21-VARIANCE-0113
<b>Project Name:</b>	Barret Avenue Variance
<b>Location:</b>	947 Barret Avenue
<b>Owner/Applicant:</b>	Shane Kibbe
<b>Representative:</b>	Kathy Matheny
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	8 – Cassie Chambers Armstrong
<b>Case Manager:</b>	Heather Pollock, Planner I

### **REQUESTS:**

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

Location	Requirement	Request	Variance
Side Yard	2.5 ft.	1.07 ft.	1.43 ft.

### **CASE SUMMARY/BACKGROUND**

The subject property is zoned C-R Commercial Residential and is in the Traditional Neighborhood Form District. It is on the east side of the 900 block of Barret Ave. in the Highlands neighborhood. The site currently has a one-story single-family residential structure and the applicant is proposing to add a side addition that will encroach into the required side yard setback.

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 setback is therefore 2.5 feet.

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

### **TECHNICAL REVIEW**

No technical review required.

## **INTERESTED PARTY COMMENTS**

No interested party comments were received by staff.

## **RELATED CASES**

No related cases.

## **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 structure 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 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 addition will encroach the same distance as the existing 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 the subject property is only 25 ft. in width and the addition will not encroach any further than the existing 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 not generally apply to 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. The existing primary structure is already encroaching into the side yard setback and the proposed addition will line up.

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.

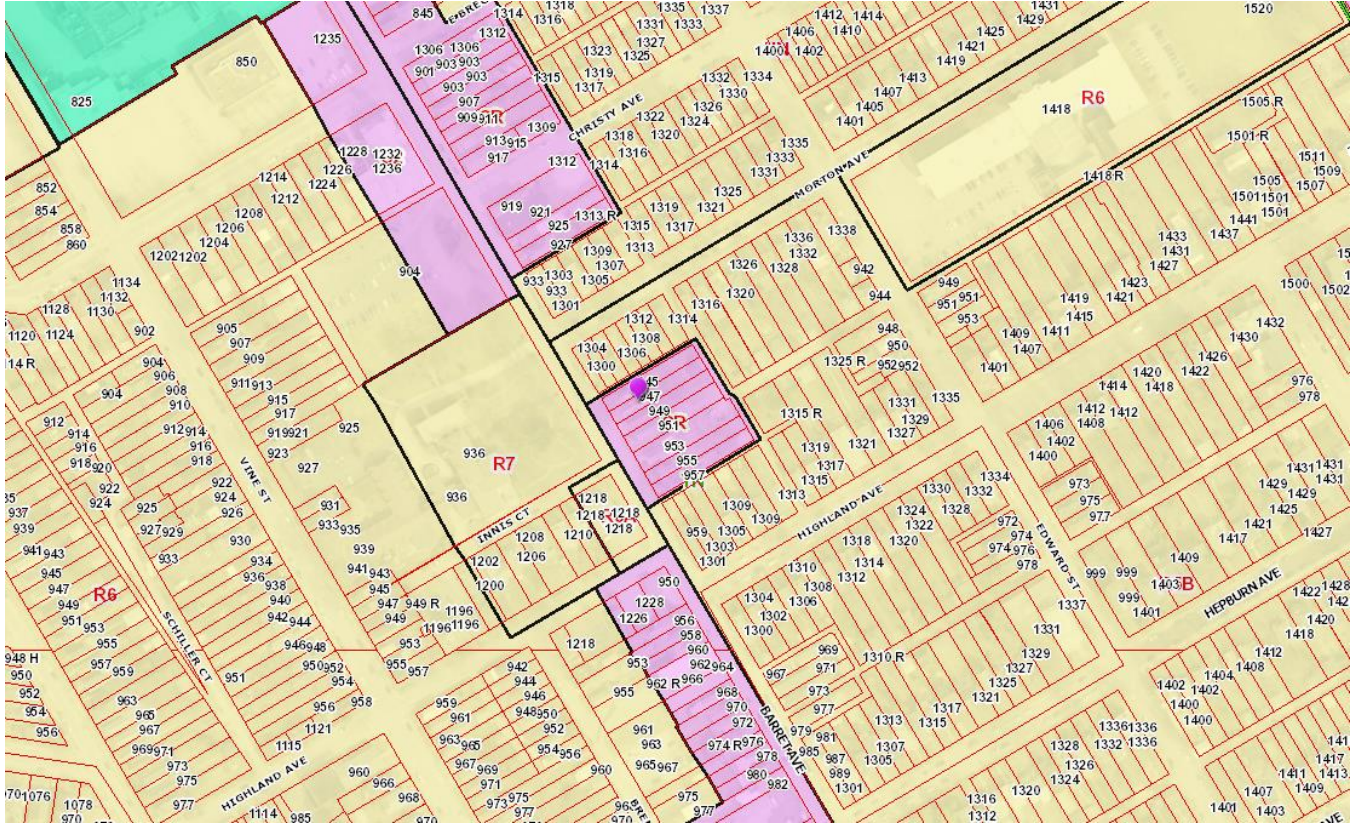
### **NOTIFICATION**

Date	Purpose of Notice	Recipients
8/26/2021	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 8
8/27/2021	Hearing before BOZA	Notice posted on property

### **ATTACHMENTS**

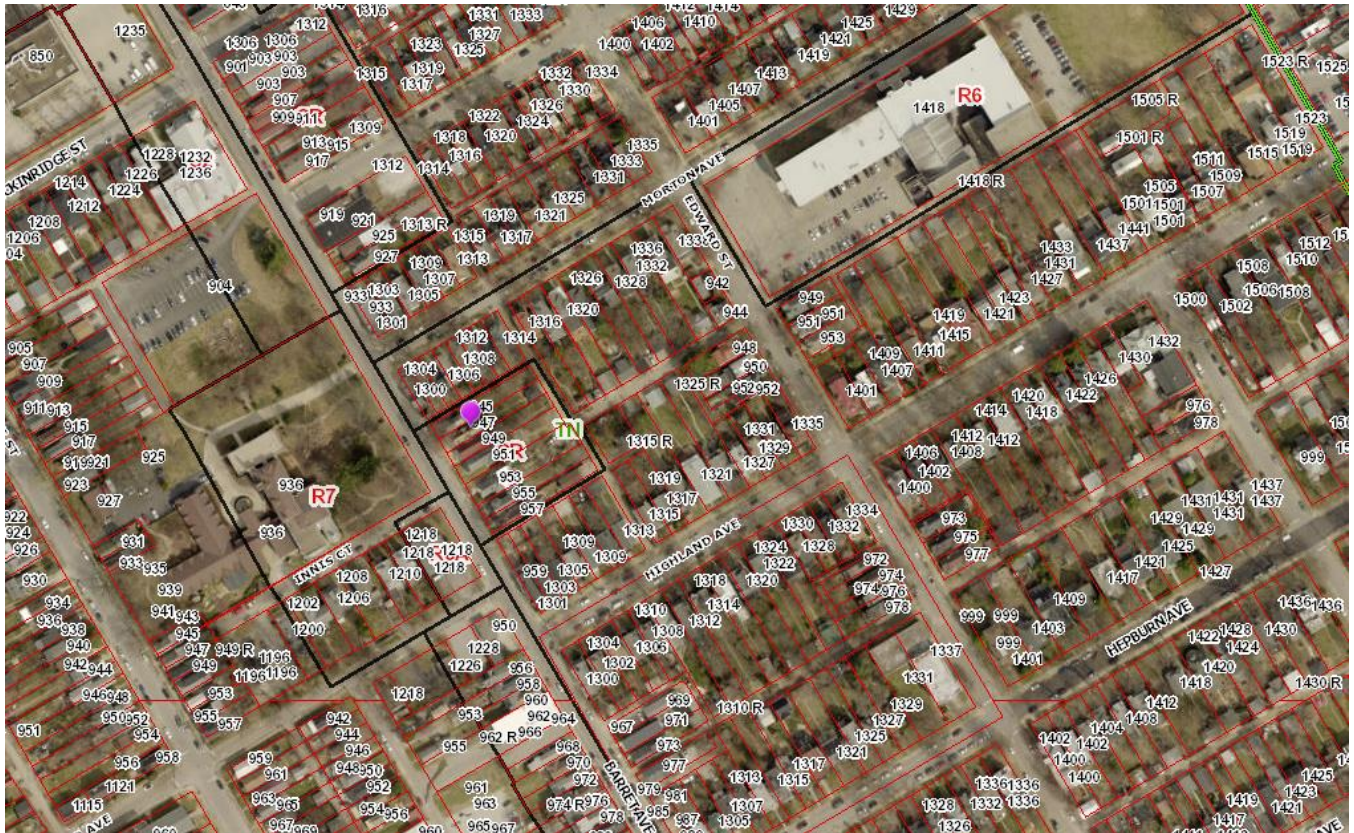
1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Site Photos

## 1. Zoning Map





## 2. Aerial Photograph



### 3. Site Plan





#### 4. Site Photos

Front of subject property.



View of variance area from front of property.





View of Variance area from rear of property.



View from variance area towards rear of property.

