

# Board of Zoning Adjustment

## Staff Report

October 04, 2021



**Case No:** 21-VARIANCE-0120  
**Project Name:** Ashland Avenue Variance  
**Location:** 622 West Ashland Avenue  
**Owner/Applicant:** Kenneth Goodman  
**Jurisdiction:** Louisville Metro  
**Council District:** 21 – Nicole George  
**Case Manager:** Heather Pollock, Planner I

### **REQUEST:**

**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	3,037.5 sq. ft.	0 sq. ft.	3,037.5 sq. ft.

### **CASE SUMMARY/BACKGROUND**

The subject site is zoned R-5 Residential Single-Family in the Traditional Neighborhood Form District. The property is located in the Southern Heights subdivision. The applicant is proposing to cover and screen in an existing deck attached to the primary structure. The new construction will reduce the private yard area to be less than the required 30% of the area of the lot.

### **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 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**

There are no related cases.

## **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 addition will not alter the essential character of the general vicinity as it is going to be built with material that will be in character with the existing residence and surrounding residential neighborhood.

- (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 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 generally 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.

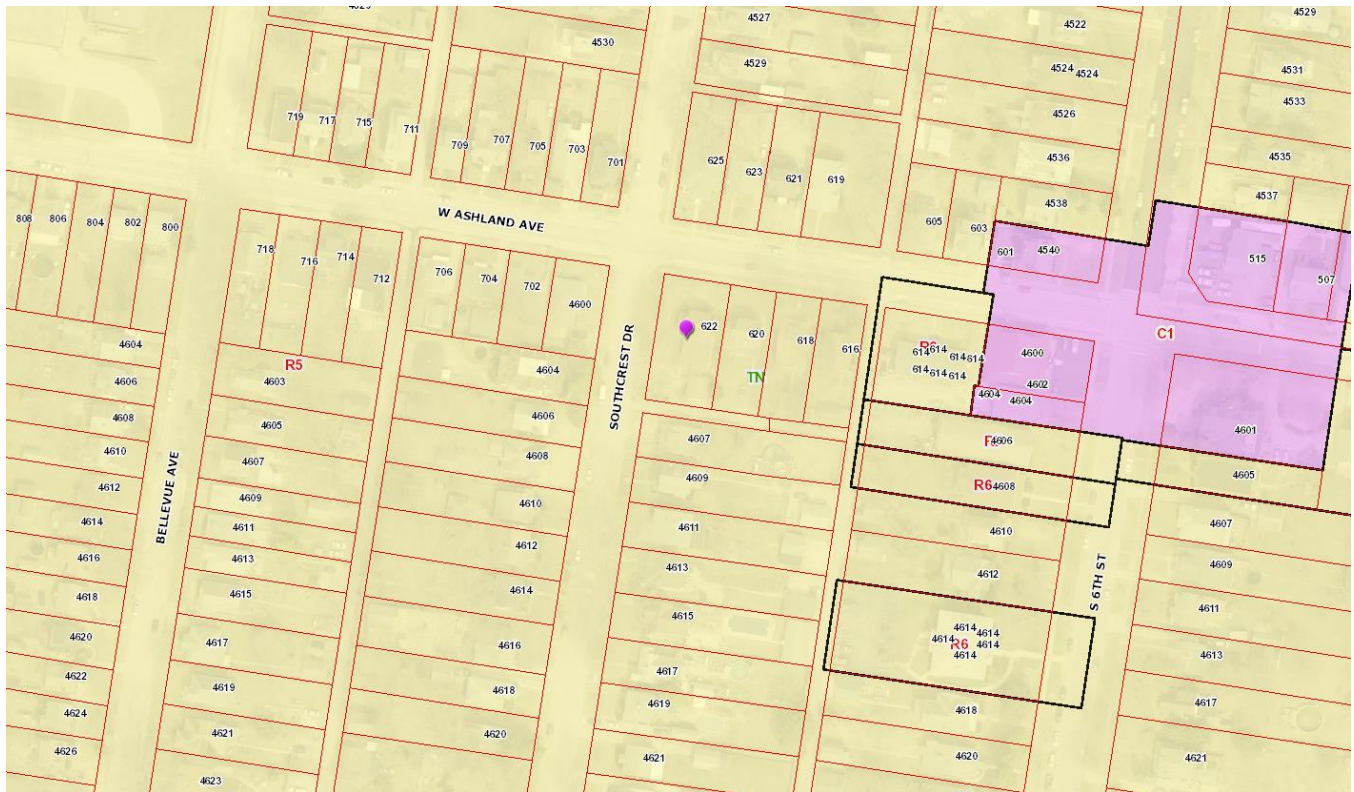
### **NOTIFICATION**

Date	Purpose of Notice	Recipients
09/13/2021	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 21
09/20/2021	Hearing before BOZA	Notice posted on property

### **ATTACHMENTS**

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

## 1. Zoning Map

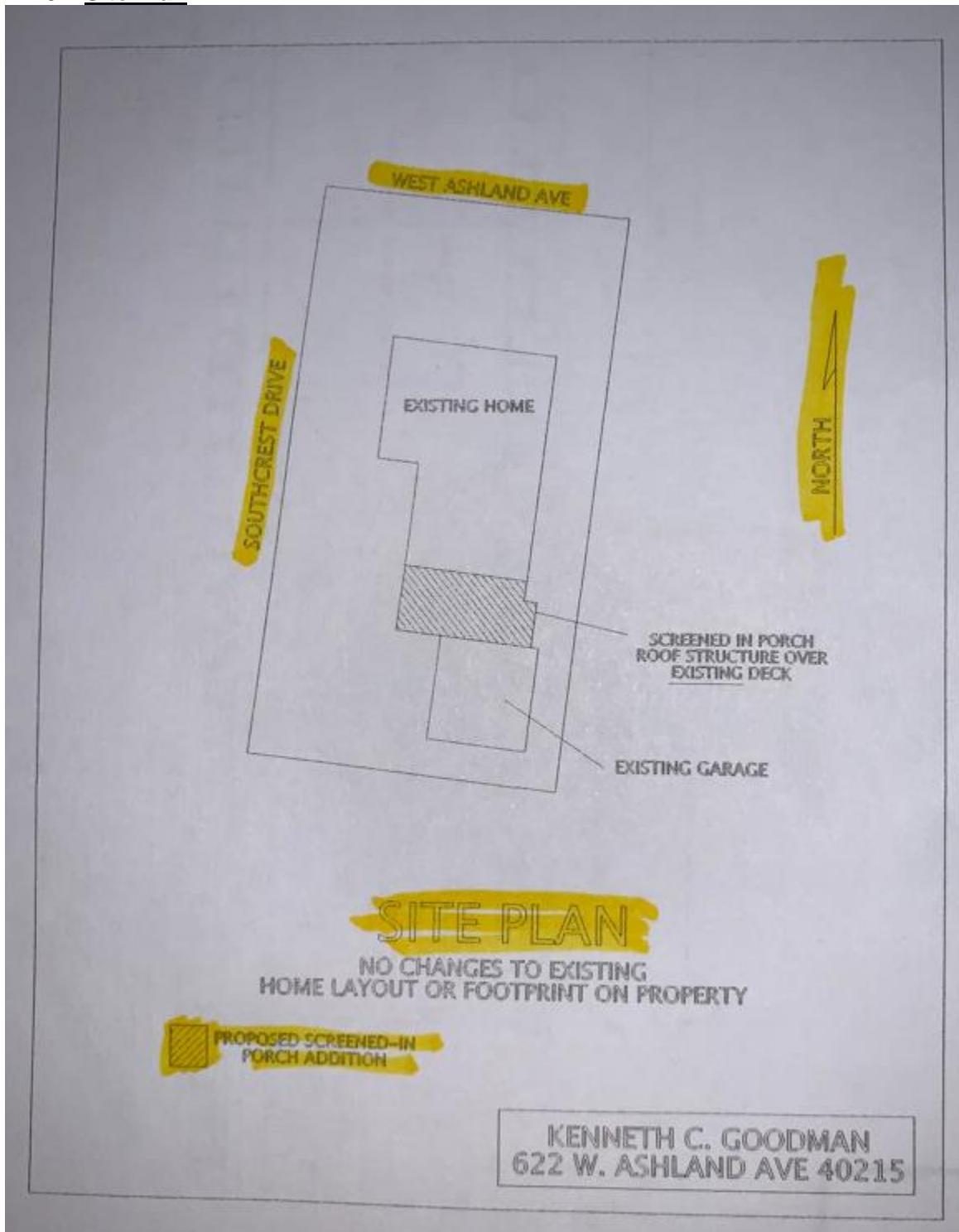


## 2. Aerial Photograph





### 3. Site Plan



### Site Photos



Front of subject site



Right of subject site





Across street





Variance Area





Variance Area, existing deck