

Board of Zoning Adjustment

Staff Report

September 11, 2023



Case No: 23-VARIANCE-0097
Project Name: Stony Brook Daycare
Location: 5206 Stony Brook Drive
Owner(s): Stony Brook Drive LLC
Applicant: Stony Brook Drive LLC
Jurisdiction: Louisville Metro
Council District: 26 – Brent Ackerson
Case Manager: Ethan Lett, Planner I

REQUEST(S)

- **Variance** from LDC Section 5.1.12 to encroach 35' into the 50' infill street-side yard setback

Location	Requirement	Request	Variance
Infill Street-Side Yard Setback	50.0 ft.	15.0 ft.	35.0 ft.

CASE SUMMARY/BACKGROUND

The proposal is for a 11,400 sq. ft. child care center with associated parking and a playground. The site fronts Hurstbourne Parkway with vehicular and pedestrian access provided from Stony Brook Drive. A variance request accompanies the development plan to allow the proposed building to encroach into the infill street-side yard setback by approximately 35 feet. The original plan for the site was for a 10-unit office building approved under Docket # 18ZONE1089.

STAFF FINDING

The requested variance is adequately justified for approval based on the analysis contained in the standard of review.

TECHNICAL REVIEW

The development plan proposal with requested waivers will be heard at the September 20th Development Review Committee meeting.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The variance will not adversely affect the public health, safety or welfare because the proposed structure will comply with all applicable building codes and the Land Development Code, except where relief is requested. The proposed encroachment will not impact vision clearance for vehicular maneuvering along Stony Brook Drive.

- (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 because preserved trees will screen the encroachment from adjacent properties.

- (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 encroachment will not hinder the safe movement of vehicles and pedestrians.

- (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 because compliance with the regulation in question would likely require the applicant to seek relief from other regulations.

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 arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the lot is irregularly shaped and requires a 30-foot parkway buffer which constrains the developable area.

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 they would be required to either seek relief from additional regulations or reduce the building footprint which would result in improperly sized child care classrooms.

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.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Variance** from LDC Section 5.1.12 to encroach 35' into the 50' infill street-side yard setback

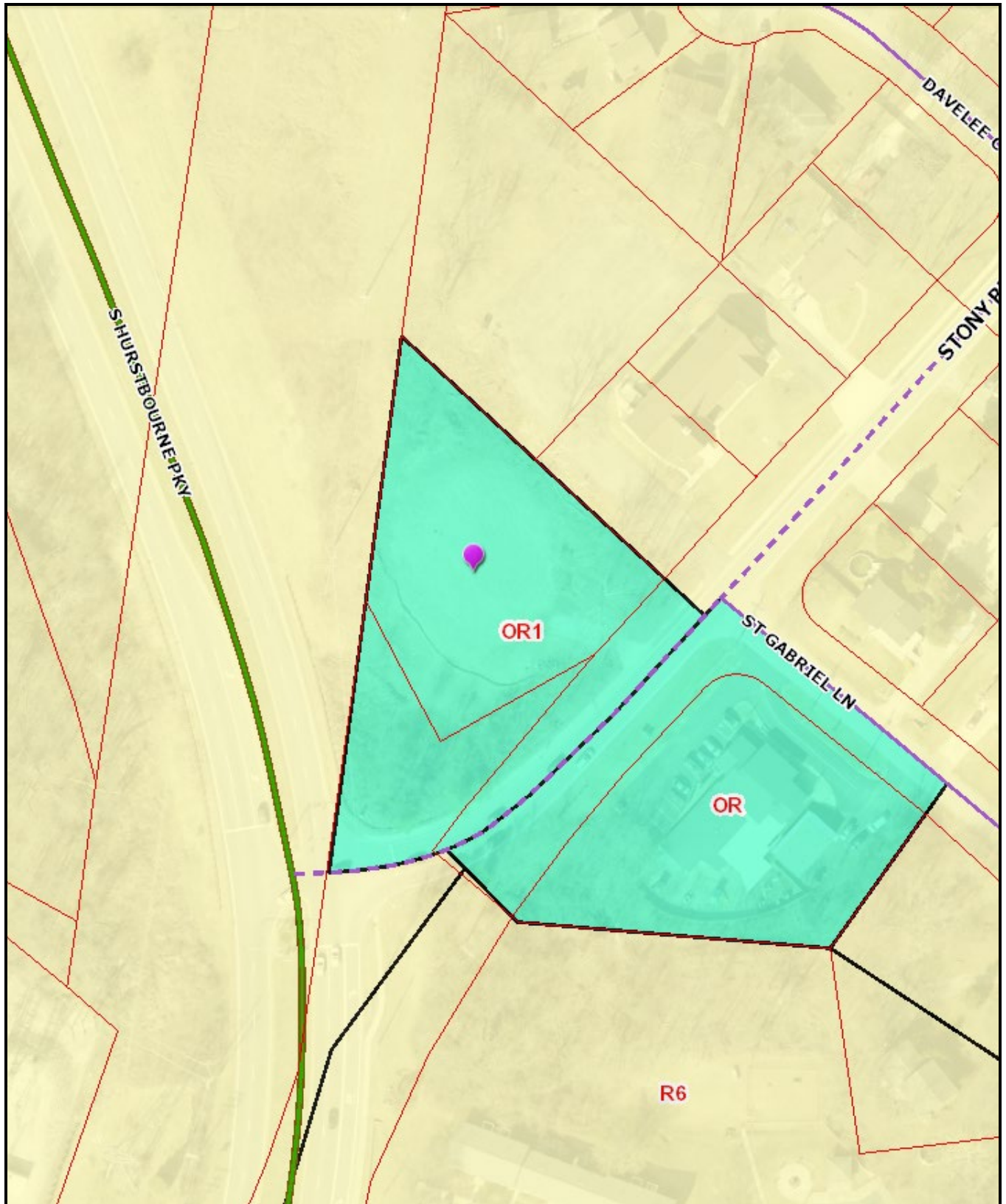
NOTIFICATION

Date	Purpose of Notice	Recipients
8/22/2023	Hearing before BOZA	1 st tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 26

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

