

Board of Zoning Adjustment Staff Report

July 24, 2023



Case No:	23-VARIANCE-0077
Project Name:	Aylesbury Drive Variance
Location:	9219 Aylesbury Dr
Owner:	Oliva Wise
Applicant:	Scott Rudd
Jurisdiction:	Louisville Metro
Council District:	7 – Paula McCraney
Case Manager:	Molly Clark, Planner II

REQUESTS

- **Variance** from Land Development Code section 9.1.4 to allow a proposed driveway to encroach into the required 5 ft side yard setback.

Location	Requirement	Request	Variance
Side Yard	5 ft	1 ft	4 ft

CASE SUMMARY/BACKGROUND

The subject site is .20320 acres and is zoned R-5 single family in the Neighborhood Form District. The subject site currently has an existing single family home. The applicant is proposing to expand the existing driveway and encroach into the side yard setback. The applicant proposes to park their trailer that consists of two jet skis in the proposed driveway. According to the Land Development Code, a driveway can be 32 feet wide but cannot be in the side yard setback.

STAFF FINDING

Staff finds that the requested side yard variance is adequately justified and meet the standards of review. There are several driveways in the immediate area that encroach into the side yard setback.

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.

TECHNICAL REVIEW

There are no outstanding technical issues with this request.

INTERESTED PARTY COMMENTS

None.

RELATED CASES

None.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 9.1.4 to allow a proposed driveway to encroach into the required 5 ft setback:

- (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 applicable building codes and the Land Development Code, except where relief is requested.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The proposed driveway and surrounding driveways are built to similar setbacks from side property lines.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The addition will not cause a hazard or nuisance to the public since it is required to meet all applicable requirements of the building code.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The proposed setback would not be an unreasonable circumvention of the zoning regulations because the proposed setback is consistent with other driveways in the immediate area.

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 because the lot is the same size and shape in comparison to 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 applicant only has a limited area where they can expand the existing driveway.

3. 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.

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 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.

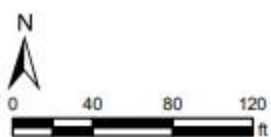
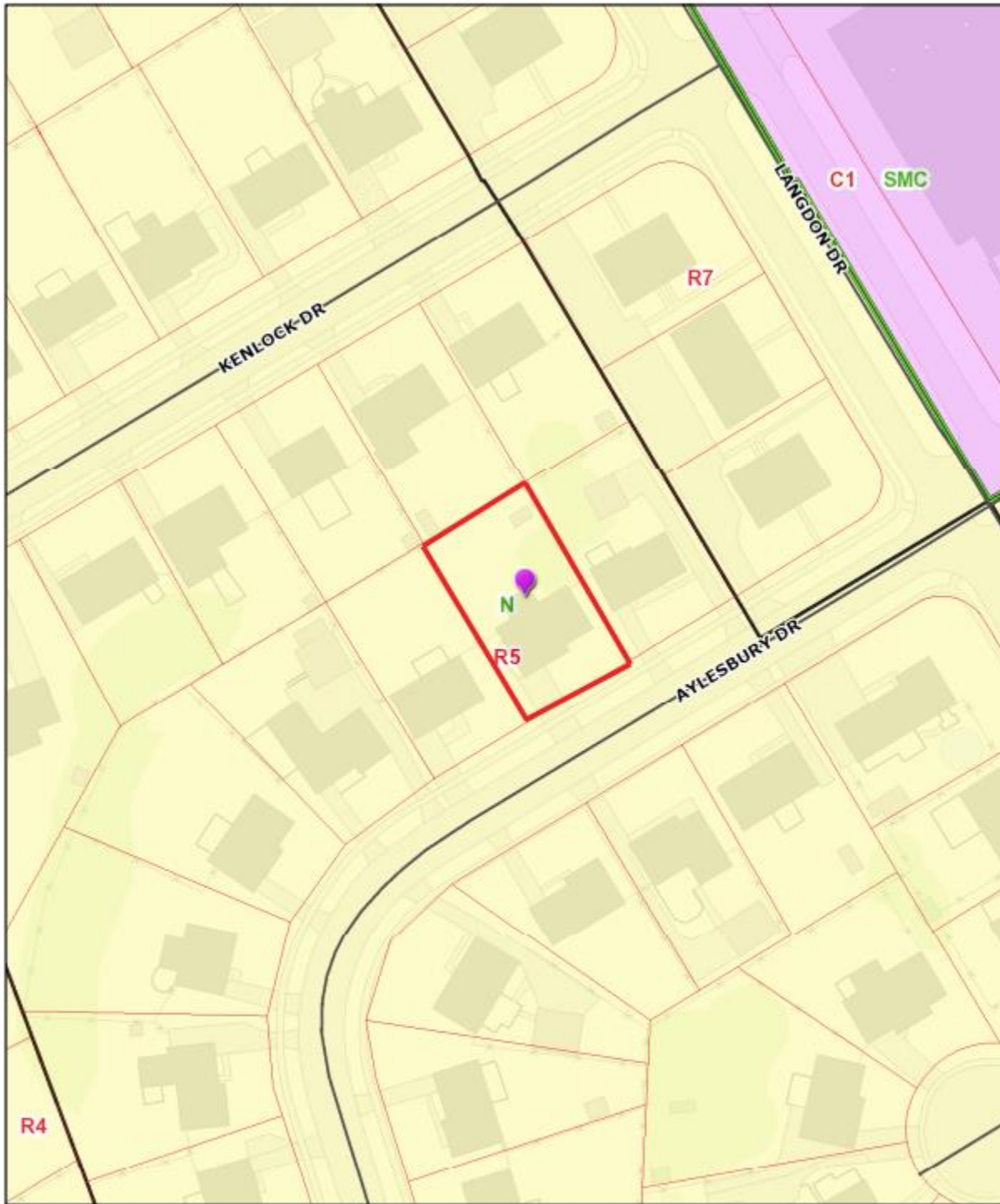
NOTIFICATION

Date	Purpose of Notice	Recipients
07/10/23	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 7

ATTACHMENTS

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

1. Zoning Map



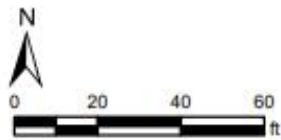
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2. Aerial Photograph



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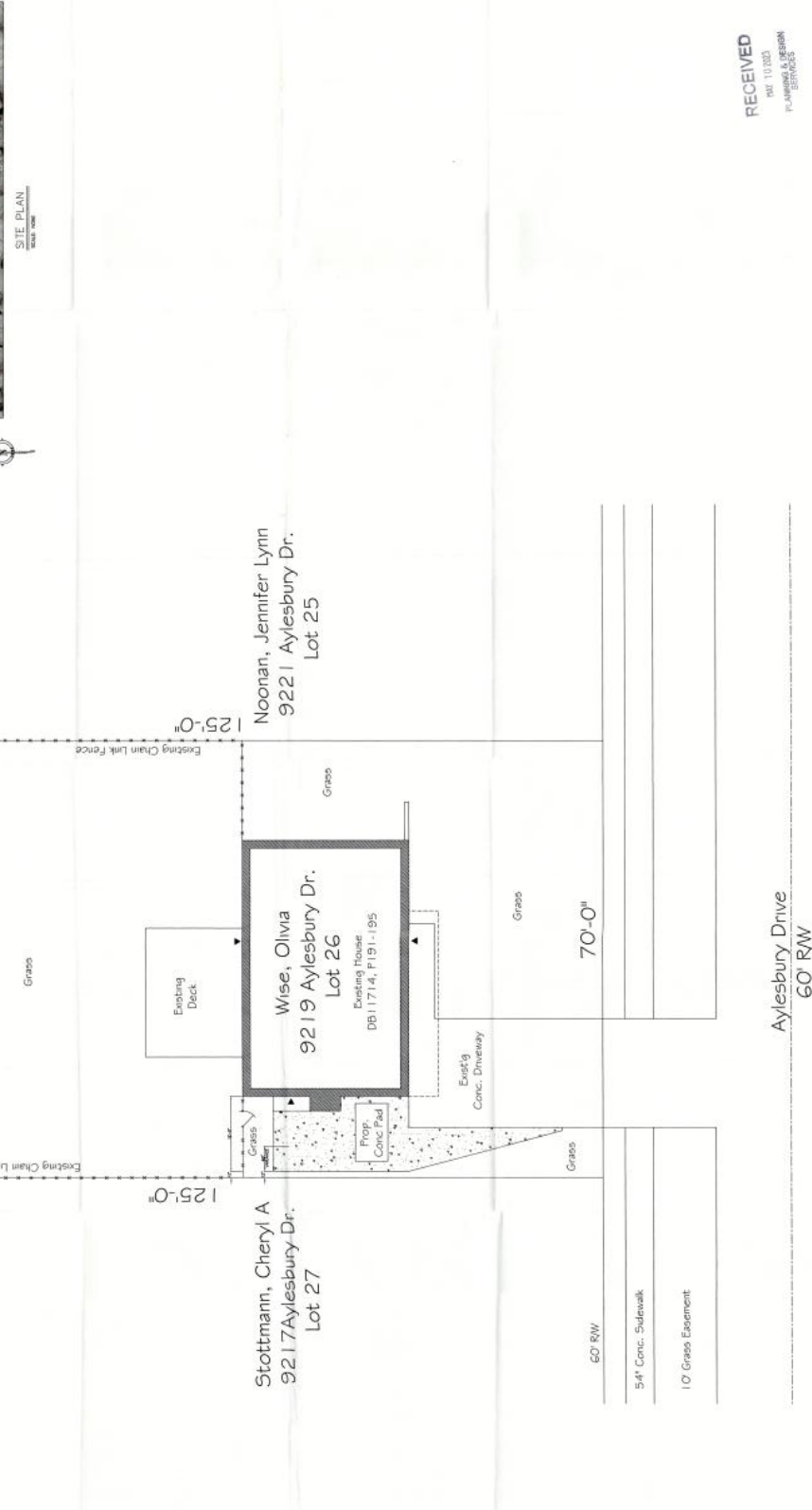


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3. Site Plan

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RECEIVED
MAY 10 2023
PLANNING & DESIGN SERVICES

4. Site Photos

Front of Property:



Houses to the right of subject site:



Properties to the left of subject site:



Across the street:

