

Board of Zoning Adjustment

Staff Report

August 7, 2023



Case No:	23-VARIANCE-0086
Project Name:	Dawn Foods Sugar Silo
Location:	6303 Kenjoy Drive
Owner:	Todd, Walz, Dawn Food Products Inc.
Applicant:	Michael Clayton, CFW Associated Engineers, Inc.
Jurisdiction:	Louisville Metro
Council District:	25- Khalil Batshon
Case Manager:	Amy Brooks, Planner I

REQUESTS:

- **Variance** from section 5.3.4.D.4.a to allow a proposed structure to exceed the maximum height in EZ-1 zoning district.
- **Variance** from section 5.3.4.D.3.a to allow a proposed structure to encroach into the street side setback in the EZ-1 zoning district.

Location	Requirement	Request	Variance
Height	50 ft.	90 ft.	40 ft.
Street Side Setback	25 ft.	20 ft.	10 ft.

CASE SUMMARY/BACKGROUND

The subject site is zoned EZ-1 in the Suburban Workplace Form District. The site is currently occupied by Dawn Foods, which provides baking products to various types of bakeries that range from artisanal bakeshops to those located in supermarkets. The applicant is proposing to build a steel silo that will measure 14' in diameter and 90' feet tall that will function as a storage tank for sugar. The sugar will arrive primarily by railcar and be pneumatically conveyed into the silo for storage until needed. When needed, the sugar pneumatically conveyed into the plant for processing.

STAFF FINDINGS

Staff finds that the requested variances are adequately justified based upon staff's analysis as contained in 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 and waivers established in the Land Development Code.

TECHNICAL REVIEW

- There are no outstanding technical issues.

INTERESTED PARTY COMMENTS

No interested party comments have been received.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.3.4.D.4.a (Maximum Height)

- (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 and the LDC except where relief is requested.

- (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 proposed use is compatible with other industrial uses in the area. In addition, there are other structures on the existing site that exceed the maximum height permitted by the specific form district.

- (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. Additionally, the operational process involved will be within a totally enclosed system mitigating risk to the public.

- (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 requested height as there are other structures in the general vicinity that exceed the maximum height requirements.

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 the land in the general vicinity or the same zone as the proposed use is compatible with others in the 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 the proposed height variance is the result of increased operational demands .

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 5.3.4.D.3.a (Front 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 silo and related equipment will be set back far enough from edge of pavement not to interfere the with the safe movement of vehicles along Kenjoy Drive.

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

STAFF: The requested variance will not alter the essential, visual character of the general vicinity. This is an area with a high concentration of industrial and commercial buildings where varied setbacks are common.

- (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. The closest residential use is a little over 500 ft. away mitigating potential risk from the industrial, operational uses.

- (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 limited available area on the lot in question. The applicant has limited room to meet the required 25-foot street side setback for the Suburban Workplace Form District.

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 not similar to others in this surrounding area. It has a unique shape.

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's operational process. The portion of the site chosen for the silo and steel platforming equipment is located in direct proximity to both existing transfer equipment and rail spur that is essential to the processing operations.

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.

REQUIRED ACTIONS

- APPROVE or DENY the **Variance** from section 5.3.4.D.4.a to allow a proposed structure to exceed the maximum height in EZ-1 zoning district.
- APPROVE or DENY the **Variance** from section 5.3.4.D.3.a to allow a proposed structure to encroach into the front setback in the EZ-1 zoning district.

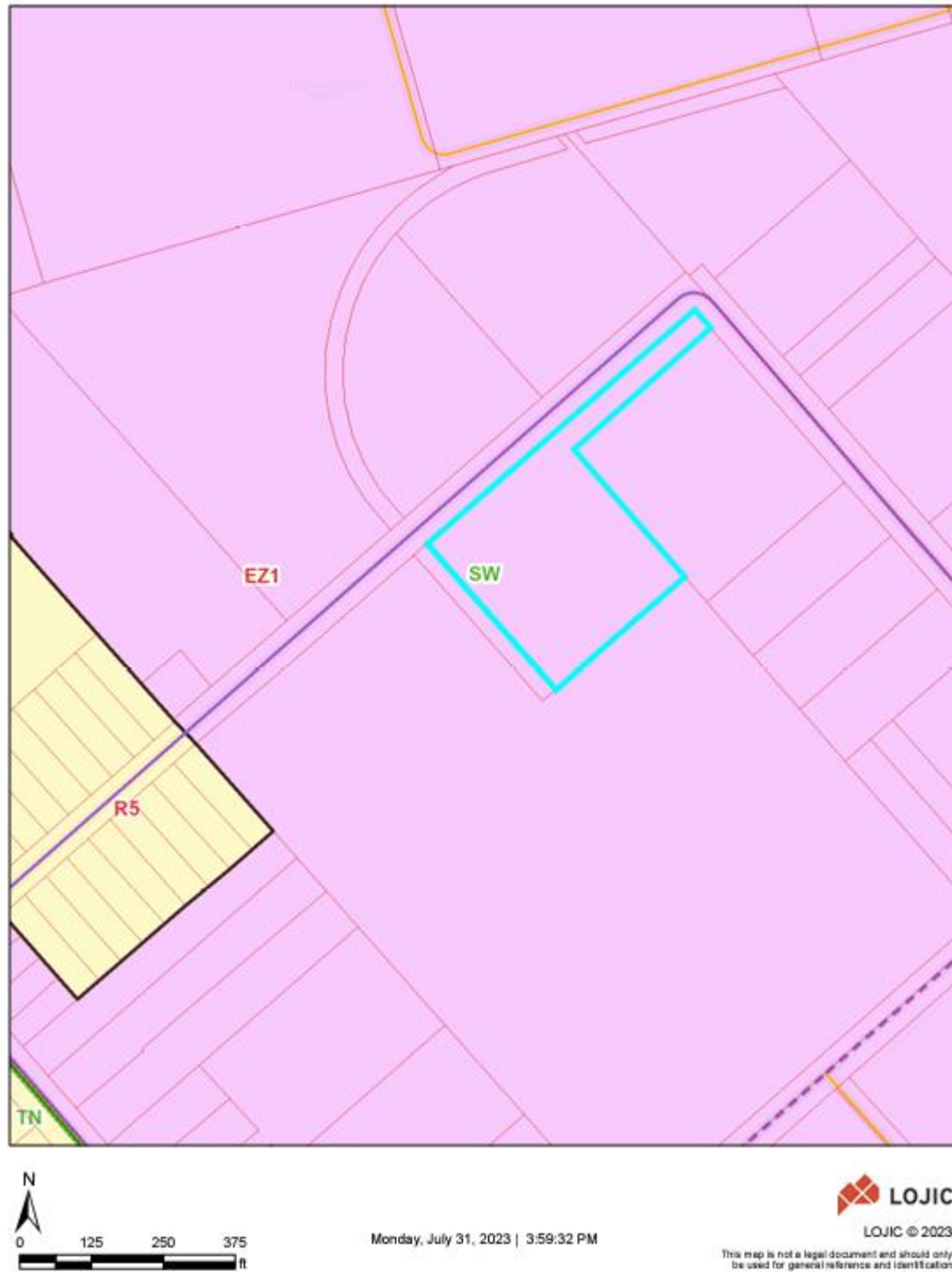
NOTIFICATION

Date	Purpose of Notice	Recipients
07/24/2023	Hearing before BOZA	1 st tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 25
07/26/2023	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

1. Zoning Map



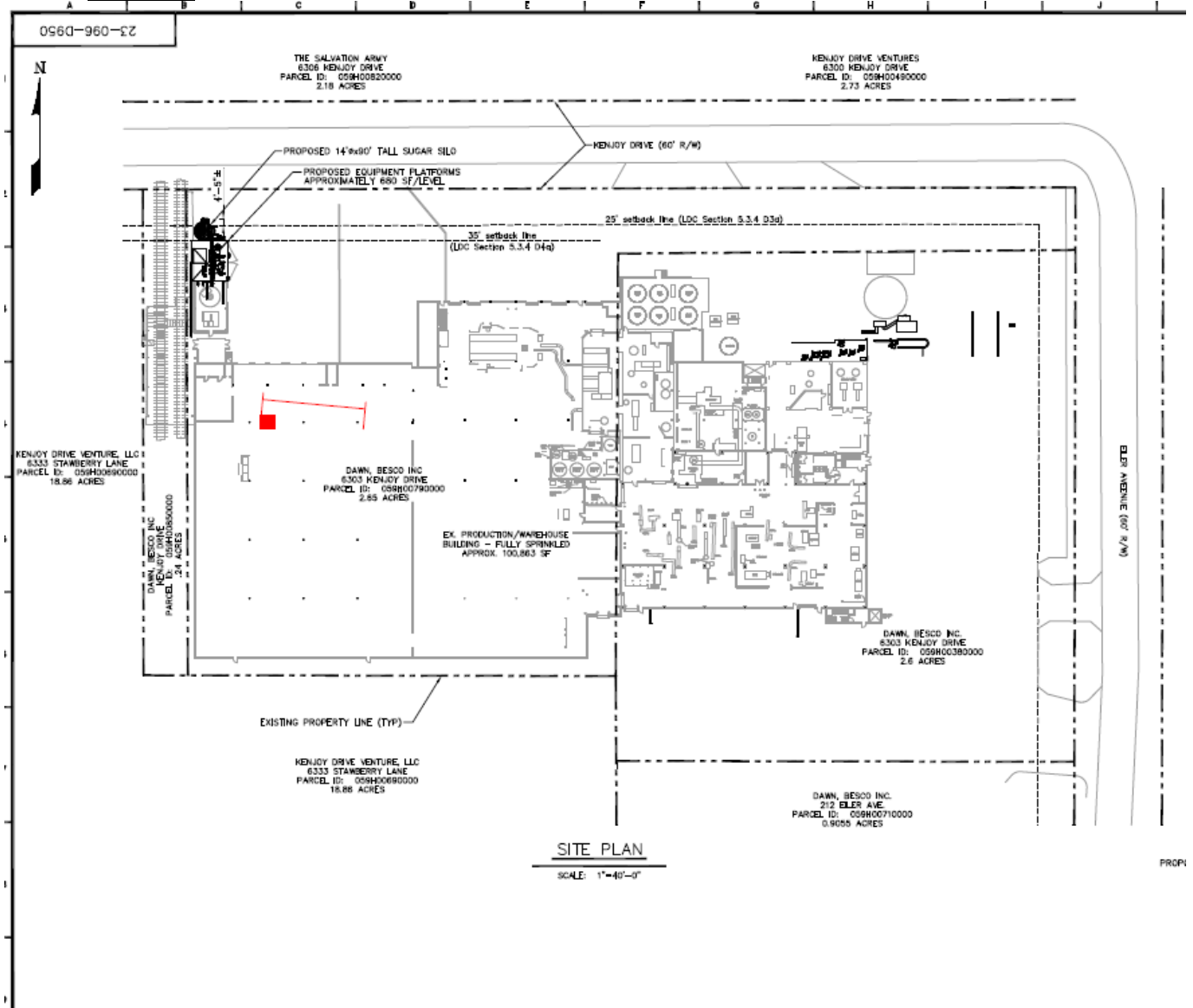
2. Aerial Photograph



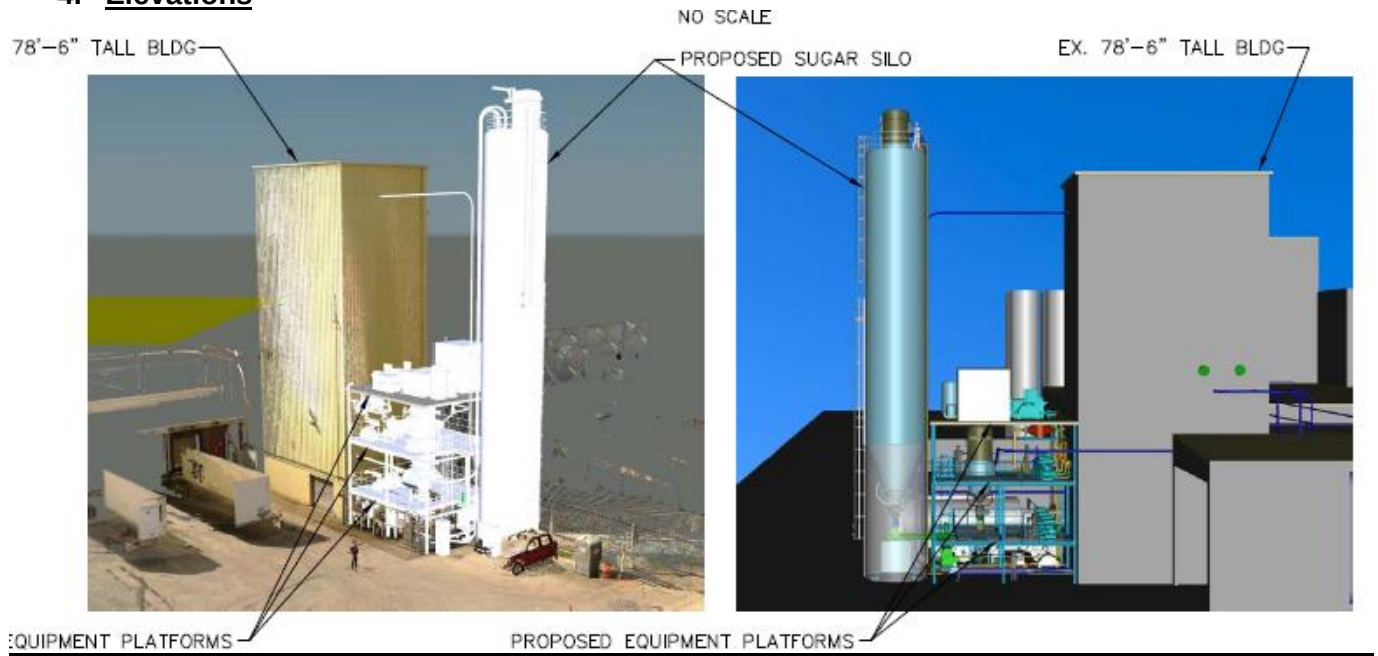
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This map is not a legal document and should only be used for general reference and identification

3. Site Plan



4. Elevations



5. Site Photos



Subject property.



View of variance area.



View of variance area.



Across Kenjoy Drive.