

Board of Zoning Adjustment

Staff Report

March 4, 2024



Case No: 23-VARIANCE-0189
Project Name: Rufer Avenue Variance
Location: 1405 Rufer Avenue
Owner: Kevin Bryan
Applicant: Kevin Bryan
Jurisdiction: Louisville Metro
Council District: 8 – Ben Reno-Weber
Case Manager: Jeremy Chesler, Planner I

REQUESTS:

- **Variance** from the Land Development Code (LDC), Section 5.1.12.A.2.e.i.1 to allow a structure to encroach into the required front yard setback.
- **Variance** from the Land Development Code (LDC), Section 5.4.1.D.2 to allow a private yard area to be less than 30% of the area of the lot.

Location	Required	Request	Variance
Infill - Front Yard Setback	20 feet	12 feet	8 feet
Private Yard Area	2,262 SF	1,290 SF	972 SF

CASE SUMMARY

The subject site is within the R-5B, residential two-family zoning district and the traditional neighborhood form district. Located on the northeast corner of Rufer Avenue and Edward Street. The site is developed with a two-story, single-family residential structure and an accessory structure. The applicant is proposing to demolish the existing residential structure and rebuild a new one in its place. Infill requirements state that front yard setback shall fall within the range of the two nearest lots containing principal structures within the same block face. Based on the established setback of the two nearest principal structures the front setback shall be between 20'-24'. The proposed front setback of 12' would require a variance of 8'.

Due to the size of the property, there must be at least 30% of the total lot area, or 2,262 SF preserved as private yard area. The proposal calls for 1,290 SF to be preserved as private yard area, thus requiring a variance of 972 SF.

STAFF FINDINGS

Staff finds that the requested variances are adequately justified for approval based on the staff's analysis contained within the standard of review.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE: INFILL – FRONT YARD 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. The proposed structure will still be setback far enough from the front property line as to not impede with the vision of pedestrians or motorists.

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

STAFF: The proposal will not alter the essential, visual character of the general vicinity. Although the infill setback is intended to maintain a consistent front setback, the front setbacks along Rufer Avenue varies, ranging from as little as 3' to as great as 38'.

- (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. The part of the property that will contain the structure is several feet above the elevation of the sidewalk, therefore the variance would not have any negative impact on people within the public realm.

- (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 it presents no adverse impacts to public safety, does not alter the essential character of the general vicinity, and does not cause a hazard or nuisance.

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 because the part of the lot where this variance is requested is a similar size and shape in comparison to the majority of nearby residential 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 would not deprive the applicant of the reasonable use of the land, as there would be sufficient space to alter the proposal as to not encroach into the front yard setback.

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 begun construction.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE: PRIVATE YARD AREA

- (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. The variance area is not near the public realm and will have no impact on pedestrians or motorists.

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

STAFF: The proposal will not alter the essential character of the general vicinity as the variance area is towards the rear of the lot and will not have any visual impact on the character of the general vicinity.

- (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 once built the structure will limit the view of the variance area from the public realm and will not result in any hazardous conditions.

- (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 it presents no adverse impacts to public safety, does not alter the essential character of the general vicinity, and does not cause a hazard or nuisance.

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 because the unique shape of the lot limits the ability to provide the required private yard 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 would deprive the applicant of the reasonable use of the land. Although the private yard area of the lot is being reduced, the proposal allows for some of the lost open space to be provided within the public realm part of the lot.

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 begun construction.

REQUIRED ACTIONS

- **APPROVE** or **DENY** the **Variance** from the Land Development Code (LDC), Section 5.1.12.A.2.e.i.1, to allow a structure to encroach into the required front yard setback.
- **Variance** from the Land Development Code (LDC), Section 5.4.1.D.2 to allow a private yard area to be less than 30% of the area of the lot.

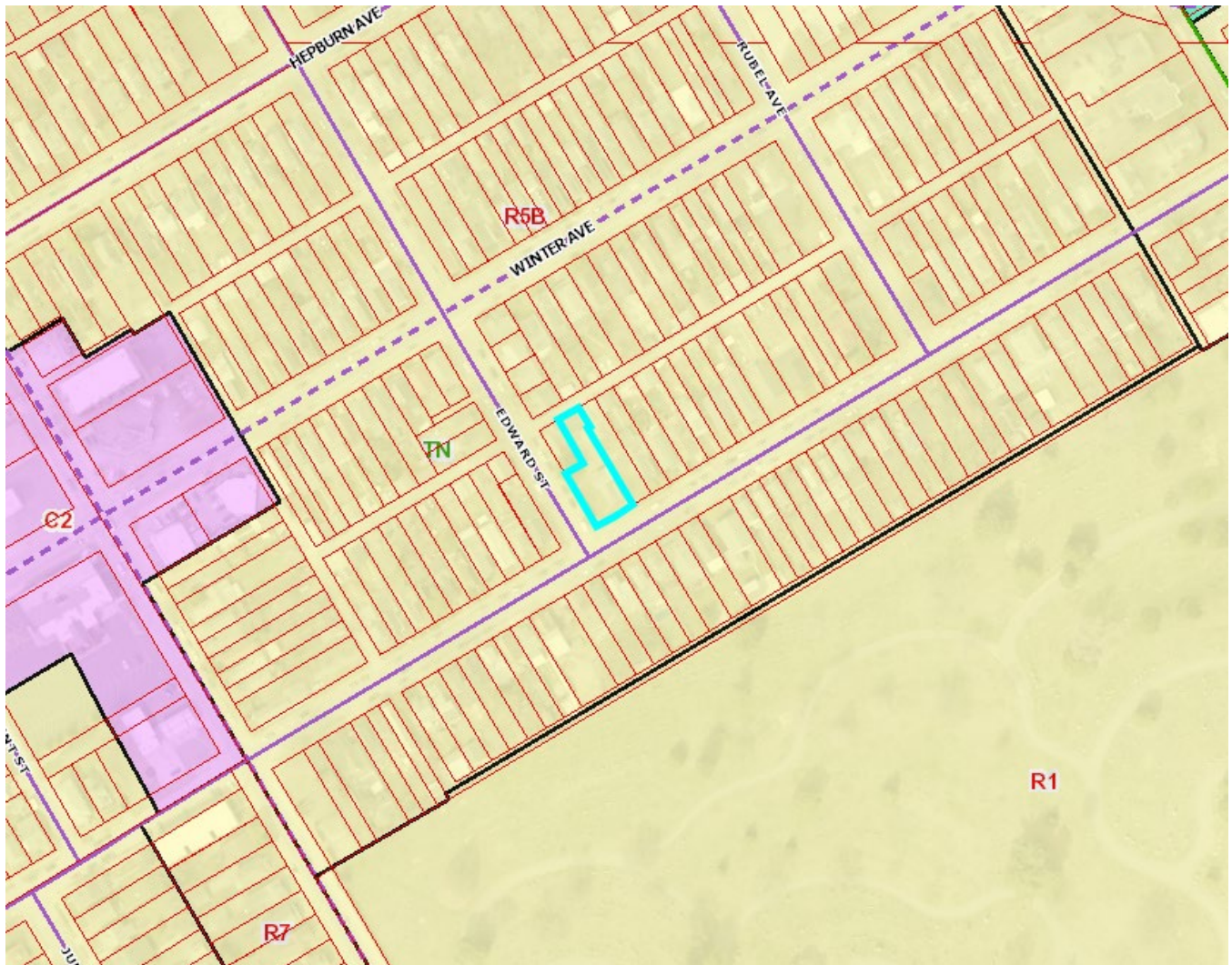
NOTIFICATION

Date	Purpose of Notice	Recipients
2/2/2024	Hearing before BOZA	1 st tier adjoining property owners
2/2/2024		Registered Neighborhood Groups in Council District 8
2/16/2024	Hearing before BOZA	Notice posted on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

