

Board of Zoning Adjustment

Staff Report

January 9, 2022



Case No:	22-VARIANCE-0133
Project Name:	Caldwell Street 2 nd Story Addition
Location:	804 E Caldwell Street
Owner/Applicant:	Joe Worth
Jurisdiction:	Louisville Metro
Council District:	4 – Jecorey Arthur
Case Manager:	Molly Clark, Planner II

REQUEST:

Variance from the Land Development Code, section 5.4.2.C.3 to allow an accessory structure to encroach into the side yard setback.

Location	Requirement	Request	Variance
Side Yard Setback	5 ft.	1.3 ft	3.7 feet

CASE SUMMARY/BACKGROUND

The subject site is zoned OR2 Office Residential in the Traditional Neighborhood Form District. The subject property has a single-family home. The applicant has begun construction on a 2nd story addition on the existing building footprint that encroaches into the side yard setback.

STAFF FINDINGS

Staff finds that the requested variance meets standards (b), (c), and (d), but staff is concerned that the variance request does not meet standard (a) because construction and maintenance of the structure may have an adverse impact on the adjoining property owners. The applicant began construction prior to review of the variance by the Board.

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

No outstanding technical review comments.

INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

RELATED CASES

ENF-DEMO-22-00038

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM 5.4.2.C.3

- (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. However, staff is concerned that the variance could adversely affect the adjacent property owner because construction and maintenance of the structure may require encroachment onto the adjacent property since it will be less than 2 feet from the property line.

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

STAFF: The structure will not alter the essential character of the general vicinity as it will be built with material that is in character with the surrounding residential neighborhood. Moreover, there are other single-family homes in the general vicinity that appear to encroach into the side yard setbacks.

- (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 the location of the second story addition is similar to other properties located on 800 block of Caldwell Street.

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 general vicinity or the same zone as the lot is similar in size and shape 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 not create an unnecessary hardship on the applicant as the second story addition can be moved 3.7 feet away from the side yard property line and meeting the requirements are possible.

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 applicant began construction subsequent to the adoption of the zoning regulation from which relief is sought.

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.

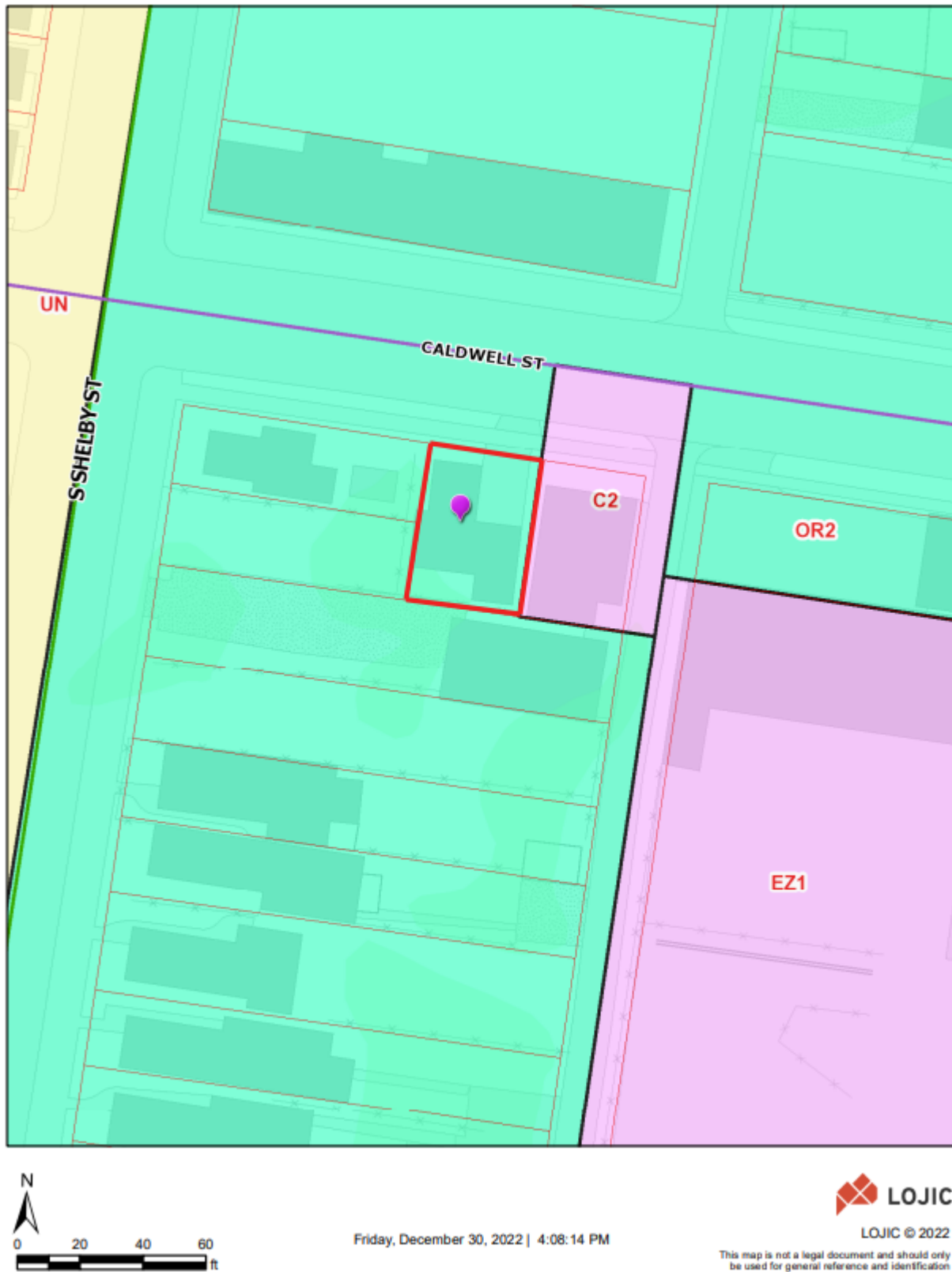
NOTIFICATION

Date	Purpose of Notice	Recipients
12/21/22	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 4
12/28/2022	Hearing before BOZA	Notice posted on property

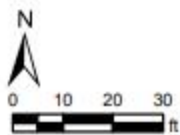
ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



Friday, December 30, 2022 | 4:06:21 PM



LOJIC © 2022

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

3. Site Plan

NOTES:

1. Site is subject to all right-of-ways, easements and restrictions of record or implied.
2. The surveyor did not make a search for easements, encumbrances, restrictions, ownership title evidence or other records that a complete and accurate title search may disclose.
3. The certification of this survey is made of this date and is subject to any future facts that more accurately describe or establish the boundary shown herein.
4. Surrounding owner information is shown per PVA records.
5. The basis of bearing was based on G.P.S. observation taken along a random traverse line on 11-10-2022. Kentucky North Zone Horizontal Datum: NAD83, Vertical Datum: NAVD83, Geoid Model: 12B, G.P.S. unit: SP60 (dual frequency), Method: VRS Network RTK.
6. Unless otherwise shown, structures shown are the footprint only.
7. This site is located in Zone AE per Firm Map 21111C0042 E dated December 5, 2006 and is located within a 100 year flood plain (0.1% chance). Flood Plain Certification is restricted to a review of the FIRM and shall not be construed as a confirmation or denial of flooding potential.
8. Title to roadways not found and are shown per tax map drawn 12-8-1999.



LOCATION MAP
No Scale



- LEGEND**
- = Found 3/4" Pipe
 - + = Set 1/2"x18" Iron Rebar with cap stamped "SCHROLL 3570"



LAND SURVEYORS CERTIFICATE

I hereby certify that the survey depicted by this plat was done by me or by persons under my direct supervision on November 10, 2022 by the method of random traverse. The unadjusted precision ratio of the survey is 1:45,411 and was not adjusted. The survey as shown hereon is an "Urban" Survey and the accuracy and precision of said survey meets all the specifications of this class.

William D. Schroll III Date 11-16-22
Professional Land Surveyor, Kentucky Registration No. 3570

BOUNDARY SURVEY

This Survey complies with KAR 18:150

Survey of: 804 E Caldwell Street
Louisville, Ky. 40204
Owner: The House, White Land Trust
PO Box 4124, Louisville, Ky. 40204
Source of Title: D.B. 12413 Pg. 320
For: The House, White Land Trust
PO Box 4124, Louisville, Ky. 40204
Ordered By: Joe Worth
Scale: 1" = 15'
Drawn Date: 11/14/22
Job No: 3413S/22
Drawn By: Bill Schroll

SCHROLL LAND SURVEYING LLC.

Office Location: 7329 St. Andrews Church Rd.
Louisville, KY. 40214
Mailing Address: 5450 Southview Drive
Louisville, KY. 40214
Office: 502-367-7660 Mobile: 502-594-6773

WS

4. Site Photos

Front of subject property



Rear of Property



Property to the left.



Property to the Right



View of variance area and location relative to neighbor's property.

