

**Board of Zoning Adjustment  
Staff Report**  
August 18, 2014



<b>Case No:</b>	14Variance1069
<b>Project Name:</b>	(none) Residential
<b>Location:</b>	3216 Rock Creek Drive
<b>Owner(s):</b>	Francis & Alice Fensterer III
<b>Applicant:</b>	Francis Fensterer III
<b>Representative:</b>	Mick Logsdon, Logsdon Surveying
<b>Project Area/Size:</b>	0.34+/- acres
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	9- Tina Ward-Pugh
<b>Case Manager:</b>	Sherie' Long, Landscape Architect (presented by Latondra Yates)

**REQUEST**

- Variance from the Land Development Code, Section 5.3.1.C.1(a)(i) to allow a proposed addition to encroach into the required infill street side yard.

Variance

Location	Requirement	Request	Variance
Street Side Yard (West) (Chamberry Drive)	40 feet	33.05 feet	6.95 feet

**CASE SUMMARY/BACKGROUND/SITE CONTEXT**

The applicant is expanding the dining room by 78 square feet by adding a 6 X 13 foot addition with a 2 foot 6 inch overhang and gutter on the west side of the house, which is located on the corner of Rock Creek Drive and Chamberry Drive. The infill standards apply to this expansion because 50% or more of the lots within 200 feet of the site are occupied by principal structures. The minimum street side setback shall be the same as the nearest principal structure, which is 40 feet.

**LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE**

The site is zoned R-5 in the Neighborhood Form District (N). It is surrounded by residential properties, zoned R-5, and located across the street from Seneca Park, zoned R-1 also in the Neighborhood Form District.

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Single-family residential	R-5	N
<b>Proposed</b>	Single-family residential	R-5	N
<b>Surrounding Properties</b>			
<b>North</b>	Seneca Park & Rock Creek Drive	R-1	N
<b>South</b>	Single-family residential	R-5	N
<b>East</b>	Single-family residential	R-5A	N
<b>West</b>	Single-family residential	R-5A	N

## PREVIOUS CASES ON SITE

None

## INTERESTED PARTY COMMENTS

None

## APPLICABLE PLANS AND POLICIES

Land Development Code

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR BOTH VARIANCES

- (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 be located more than 33 feet from the property line. The proposed addition will not block or interfere with the sight views of on-coming traffic on either Rock Creek Drive or Chamberry Drive.

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

STAFF: The requested variances will not alter the essential character of the general vicinity because the proposed structure will be constructed with materials which are compatible with the surrounding existing structures; the new addition will be more than 33 feet from the property line; and the existing trees, Magnolia and Birch, are to remain in place which will reduce the impact of the encroachment.

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

STAFF: The requested variances will not cause a hazard or nuisance to the public because the new addition will be located more than 33 feet from the property line, and the existing two large trees, Magnolia and Birch are to remain in place which reduces the impact of the encroachment.

- (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 the proposed 78 square foot addition is on the side of the house and is only encroaching into a small portion of the street side yard setback.

## 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. This lot is a corner lot which has a street side yard setback (40 feet) which is the same as the front yard setback (40 feet). These large setbacks limit the buildable area of the lot.

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 prevent the addition from being built since over half of the lot is restricted by the front and street side yard setbacks.

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 the result of actions of that the applicant has taken subsequent to the adoption of the zoning regulation from which relief is sought. Yes, the variance is a result of the proposed location of the new addition in the street side yard of the house on an infill lot.

### TECHNICAL REVIEW

No outstanding technical review items.

### STAFF CONCLUSIONS

The standard of review and staff analysis has been met for the requested variance. The location, architectural design, and material selection are all appropriate for the new addition, plus the existing large trees are to be remaining to lessen the impact of the new addition.

Based upon the information in the staff report, 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 as established in the Land Development Code.

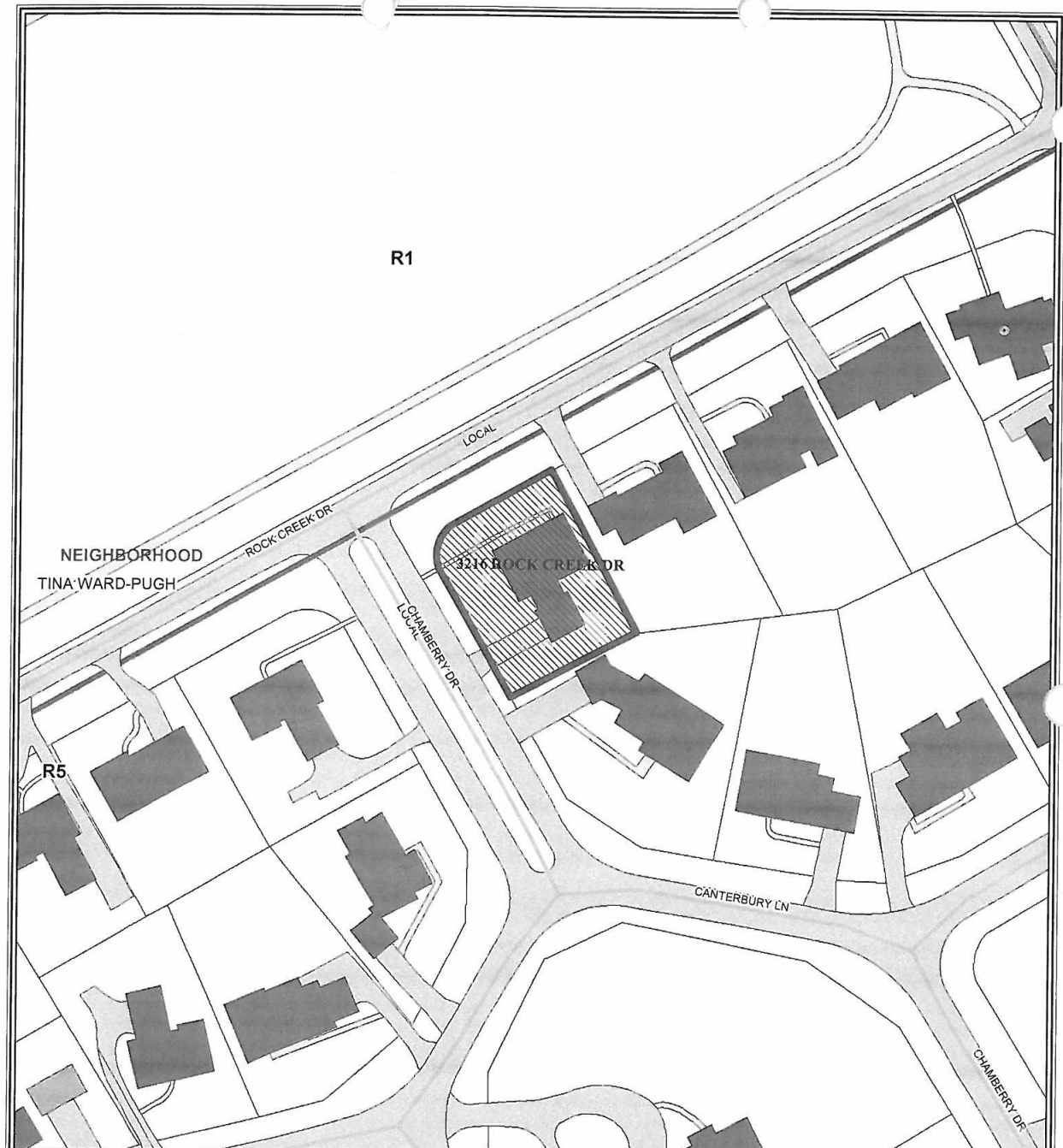
### NOTIFICATION

Date	Purpose of Notice	Recipients
08/01/2014	BOZA Hearing	1 <sup>st</sup> tier adjoining property owners Neighborhood notification recipients
07/31/2014	Sign Posting	Subject property

### ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Elevations
5. Site Photographs
6. Applicant's Justification

**Attachment 1: Zoning Map**



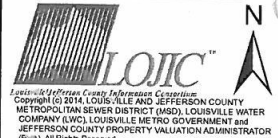
R-R RURAL RES.	R-5 RES. S.FAM.	R-8A RES. M-FAM.	C-R COMM./RES.	M-1 IND.	DRO DEV. REVIEW OV.
R-E RES. EST.	RRD RES. REDEV	OR-1 OFF./RES.	C-1 COMM.	M-2 IND.	W-1 WATERFRONT
R-1 RES. S.FAM.	R-5A RES. M-FAM.	OR-2 OFF./RES.	C-2 COMM.	M-3 IND.	W-2 WATERFRONT
R-2 RES. S.FAM.	R-6B TWO-FAM.	OR-3 OFF./RES.	C-3 CBD	CRO CRO. REVIEW OV	W-3 WATERFRONT
R-3 RES. S.FAM.	R-6 RES. M-FAM.	OTF OFF./TOUR	C-M COMM. MAN.	PRO PLAN. RESEARCH	WRO WATER. REVIEW OV.
R-4 RES. S.FAM.	R-7 RES. M-FAM.	C-N NEIGH. COMM.	EZ-1 ENTERPRISE	PEC PLAN. EMP. CEN.	



**Zoning District Map**  
 Louisville/Jefferson Metro Government  
 Planning and Design  
 Services

**14VAR1069  
 VARIANCE**

Scale: 1:1211 Date: 07/23/2014



Attachment 2: Aerial Photograph



R-R RURAL RES.	R-5 RES. S.FAM.	R-8A RES. M-FAM.	C-R COMM./RES.	M-1 IND.	DRO DEV. REVIEW OV.
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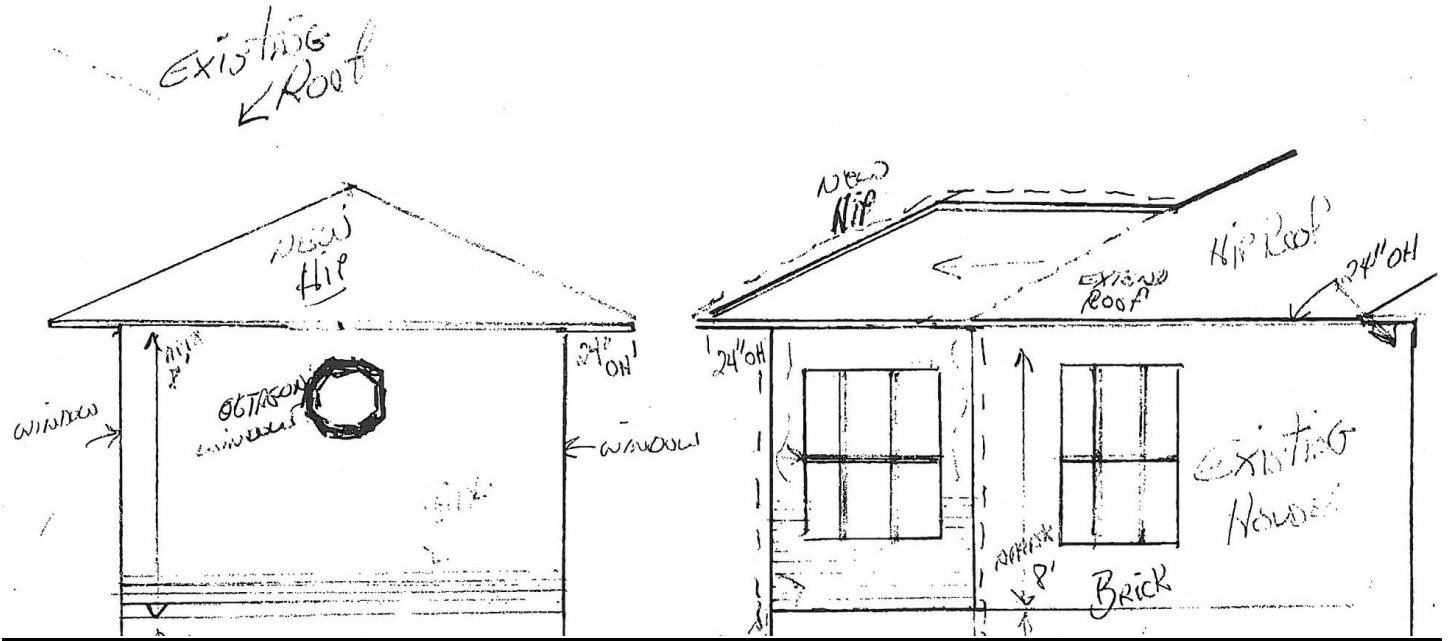
**14VAR1069**  
**VARIANCE**  
 Scale: 1:673 Date: 07/23/2014







Attachment 4: Elevations



Side Elevation: West Elevation (Chamberry Street)

Rear Elevation: South Elevation

**Attachment 5: Site Photographs**



**Front view of lot**



**View from the corner.**





**View of street side yard, location of the new addition.**



**Adjacent house to the south.**





**View looking toward Rock Creek Drive and front yard of house to the south.**



**View looking toward Rock Creek Drive and existing trees to remain.**





**View of location of new addition on side of house. All existing trees to remain, except the existing foundation plantings are to be removed to allow for construction of the proposed addition.**



**Existing house to the west across Chamberry Drive.**