

**Board of Zoning Adjustment
Staff Report**
August 1, 2016



Case No:	16VARIANCE1050
Request:	To allow an existing accessory structure (studio) to encroach into the minimum required five foot side yard setback.
Project Name:	237 Fairfax Avenue
Location:	237 Fairfax Avenue
Area:	.23620 acres
Owner:	Ann and Henry Austin
Applicant:	Charlie Williams – Charlie Williams Design Inc.
Representative:	Charlie Williams – Charlie Williams Design Inc.
Jurisdiction:	St. Matthews
Council District:	9 – Bill Hollander
Case Manager:	Ross Allen, Planner I

REQUEST

- Variance from the St. Matthews Development Code section 4.7.C.2.b, to allow an existing accessory structure to encroach in the minimum required side yard setback.

Location	Requirement	Request	Variance
Side Yard Setback	5 feet	3 feet	2 feet

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant has constructed an accessory structure that is encroaching into the minimum side yard setback along the southern property line. The applicant is requesting a variance for the encroachment of the accessory structure (studio) into the side yard setback.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Residential Single Family	R-5	Neighborhood Form District
Proposed	Residential Single Family	R-5	Neighborhood Form District
Surrounding Properties			
North	Residential Single Family	R-5	Neighborhood Form District
South	Residential Single Family	R-5	Neighborhood Form District
East	Residential Single Family	R-5	Neighborhood Form District
West	Public and Semi-Public	OR-3/R-5	Town Center Form District

PREVIOUS CASES ON SITE

No related cases associated with the subject property.

INTERESTED PARTY COMMENTS

No comments were received from concerned citizens.

APPLICABLE PLANS AND POLICIES

Development Code (St. Matthews)

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

- (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 since the side yard setback is an existing condition and the property is private with no access to the public.

- (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 since the new addition that is to be constructed onto the principal structure triggered the variance for the side yard setback of the accessory structure.

- (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 since the addition is onto the rear of the principal structure and is not intended for use by 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 since the proposed addition is within the permitted uses within the Development Code (St. Matthews) for a parcel zoned R-5.

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.

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 resulting in the inability of the applicant to construct the proposed addition to the rear of the principal structure.

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 construction of the new addition onto the rear of the principal structure requires that the applicant seek relief to allow the side yard setback to the existing accessory structure to be less than required by the Development Code (St. Matthews).

TECHNICAL REVIEW

- No technical review was conducted.

STAFF CONCLUSIONS

The variance request appears to be adequately justified and meets the standard of review. 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 established in the Development Code (City of St. Matthews) from section 4.7.C.2.b, to allow an existing accessory structure to encroach by 2 ft. into the minimum required side yard setback.

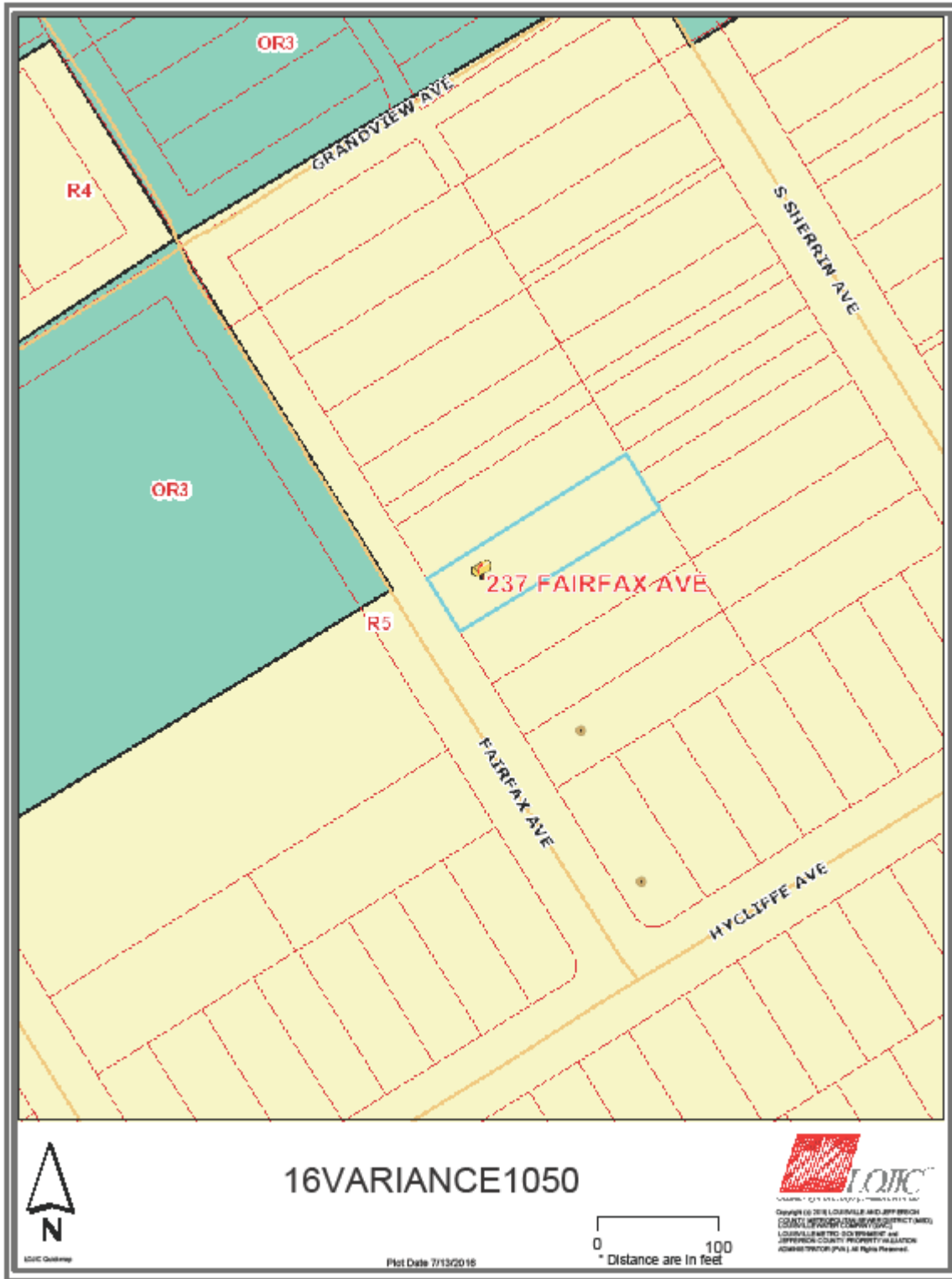
NOTIFICATION

Date	Purpose of Notice	Recipients
July 15, 2016	Non-public hearing, no notices are required	1 st tier adjoining property owners Subscribers of Council District 9 Notification of Development Proposals
July 15, 2016	Non-public hearing, no posting is required	Sign Posting on property (not required)

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

