

Board of Zoning Adjustment Staff Report

October 17, 2016



Case No:	16VARIANCE1071
Request:	To allow the steps of a proposed deck to encroach into the side yard setback by approximately 2 feet.
Project Name:	715 Shelby Parkway
Location:	715 Shelby Parkway
Area:	.08220 acres
Owner:	Jordan Vance Smith
Applicant:	Jordan Vance Smith
Representative:	Jordan Vance Smith
Jurisdiction:	Louisville Metro
Council District:	4 – David Tandy
Case Manager:	Ross Allen, Planner I

REQUEST

- **Variance:** from the Land Development Code section 5.4.1.E.5 to allow the deck, approximately 5 ft. linear fence, and steps from an unenclosed deck to encroach into the 3 foot side yard setback as determined by LDC section 5.2.2, table 5.2.2 for an R-6 zoned parcel located within the Traditional Neighborhood Form District.

Location	Requirement	Request	Variance
Side Yard Setback (Eastern Property Line)	3 ft.	1 ft.	2 ft.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to construct a deck onto the rear of the principal structure, at level with the first floor of the existing principal structure. The deck will extend outward to the rear of the property for approximately 39 feet and will extend in a 90 degree direction at the rear end to the west of the parcel with an approximate area of 432 sf. The deck will encroach into the minimum side yard setback. The property owner will place a fence of approximately 5 linear feet and length with a height of no more than 8 feet located approximately 11 feet north of the rear of the principal structure along the eastern side of the proposed deck. The subject site is bounded on the North by an unnamed alley, on the South by Shelby Parkway, and on the East and West by other R-6 zoned parcels.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Residential Multi-Family	R-6	Traditional Neighborhood
Proposed	Residential Multi-Family	R-6	Traditional Neighborhood
Surrounding Properties			
North	Residential Multi-Family	R-6	Traditional Neighborhood
South	Residential Multi-Family	R-6	Traditional Neighborhood
East	Residential Multi-Family	R-6	Traditional Neighborhood
West	Residential Multi-Family	R-6	Traditional Neighborhood

PREVIOUS CASES ON SITE

None

INTERESTED PARTY COMMENTS

No comments were received from concerned citizens.

APPLICABLE PLANS AND POLICIES

Land Development Code (July 2016)

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

- (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 proposed deck and steps are within a distance of one foot from the subject site's eastern property line.

- (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 two homes within the same block have decks in the private yard areas in the rear of the principal structures.

- (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 deck and the steps leading from the deck are contained within the subject sites parcel and do not infringe upon the R-6 zoned parcel to the east.

- (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 at least two other homes in the general vicinity have decks found to the rear of the principal structures.

ADDITIONAL CONSIDERATIONS:

1. The requested variance does not arise 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 or the same zone since decks are found in the private yard areas of at least two other homes in the general vicinity.

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 deprive the applicant of the reasonable use of the land since other decks are present in the general vicinity however, setbacks are unknown in relation to the applicant's proposal.

3. 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.

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 since the applicant is attempting to comply with the Land Development Code by requesting BOZA to grant the variance.

TECHNICAL REVIEW

- None

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 standard of review for granting a variance as established in the Land Development Code from section 5.4.1.E.5 to allow steps and unenclosed deck to encroach into the 3 foot side yard setback as determined by LDC section 5.2.2, table 5.2.2 for an R-6 zoned parcel located within the Traditional Neighborhood Form District.

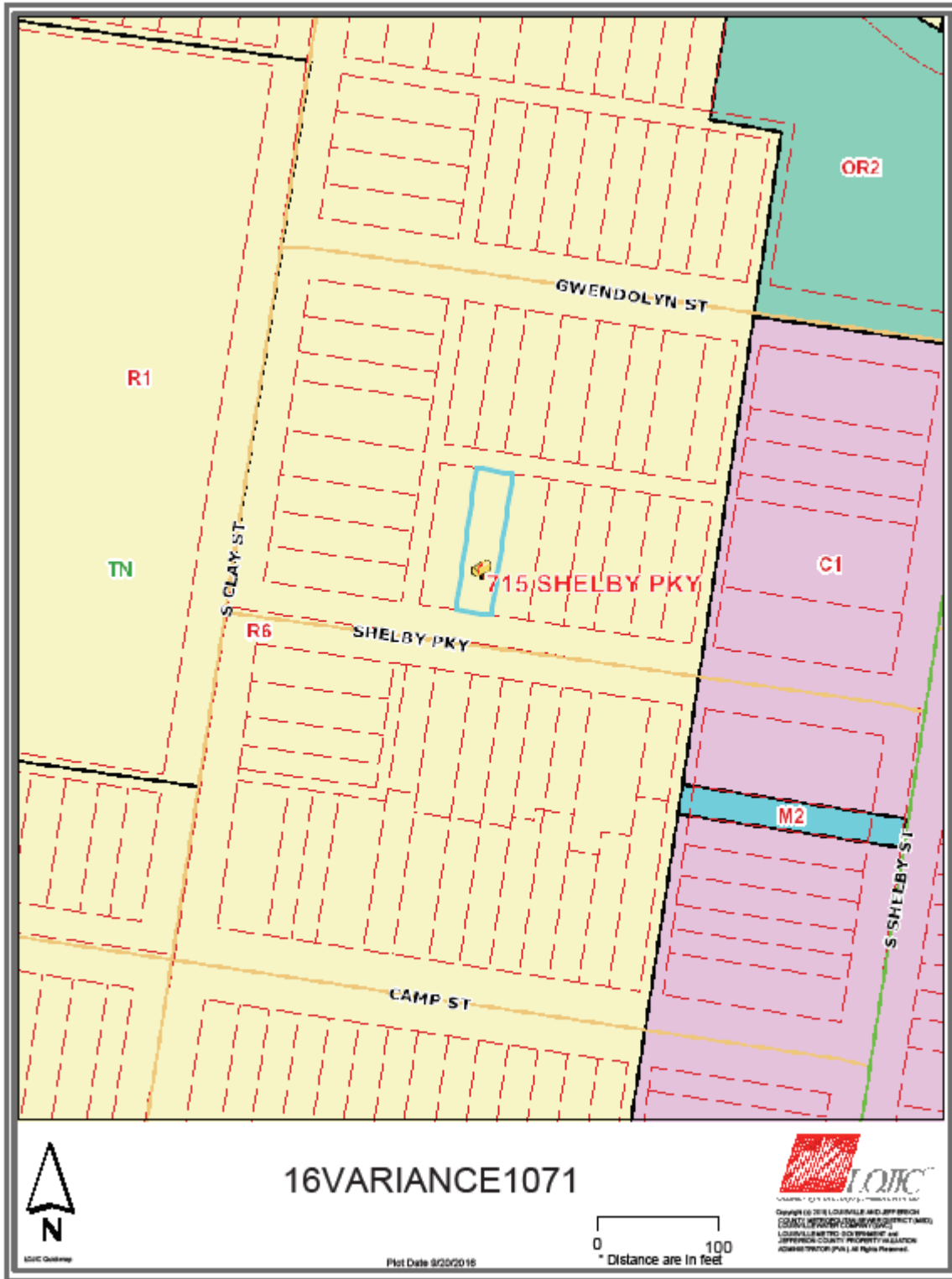
NOTIFICATION

Date	Purpose of Notice	Recipients
Sept. 30, 2016	Hearing before BOZA	1 st tier adjoining property owners Subscribers of Council District 4 Notification of Development Proposals
Sept. 30, 2016	Sign Posting for BOZA	Sign Posting on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

