

**Board of Zoning Adjustment**  
**Staff Report**  
 January 10, 2022



<b>Case No:</b>	21-VARIANCE-0159
<b>Project Name:</b>	Delmont Avenue Variance
<b>Location:</b>	219 Delmont Avenue
<b>Owner/Applicant:</b>	Anthony Alexander
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	4 – Jecorey Author
<b>Case Manager:</b>	Heather Pollock, Planner I

**REQUESTS:**

**Variance** from the Land Development Code section 5.1.12.A to allow a front porch to encroach into the front yard setback.

Location	Requirement	Request	Variance
Front Yard	18 ft.	4.5 ft.	13.5 ft.

**CASE SUMMARY/BACKGROUND**

The subject property is zoned R5-B two family Residential and is in the Traditional Neighborhood Form District. It is on the north side of the 200 block of Delmont Ave in the Clifton Heights Neighborhood. The site currently has a one story single-family residential structure and the applicant has started construction on a front porch addition that encroaches into the required front yard setback.

Section 5.1.12.A.2.a of the Land Development Code states that the front yard setback line shall fall within the range of the front yard setbacks of the two nearest lots containing principal structures within the same block face. Therefore, the front yard setback shall be 18 ft.

**STAFF FINDINGS**

Staff finds that the requested variance is adequately justified and meets standards of review.

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 Code to allow a principal structure to encroach into the side yard setback.

**TECHNICAL REVIEW**

No technical review required.

## **INTERESTED PARTY COMMENTS**

No interested party comments were received by staff.

## **RELATED CASES**

ENF-BLD-19-05691: Building enforcement case for front porch addition without a permit.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM Section 5.1.12.A**

- (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 proposed structure must be constructed to comply with all building codes, including fire codes.

- (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 as the proposed porch is similar to others in the area.

- (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 infill regulations require the setback to be greater than the form district requirement of 15 ft.

## **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 or the same zone as the lot is similar in size and shape as 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 there is an existing front porch and the applicant is requesting to extend it further.

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 the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant has started construction and is requesting the variance.

### **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.

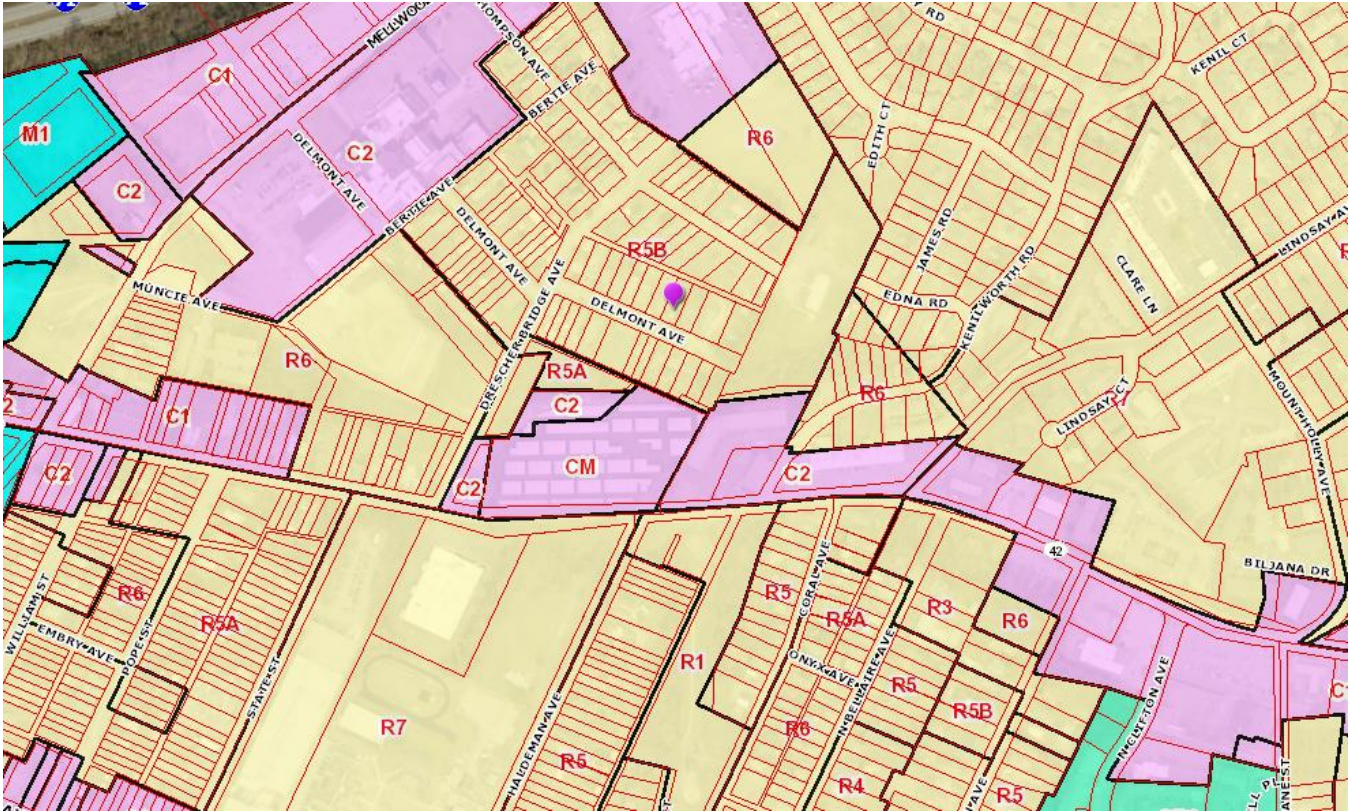
### **NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>12/23/2021</b>	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 4
<b>12/23/2021</b>	Hearing before BOZA	Notice posted on property

### **ATTACHMENTS**

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

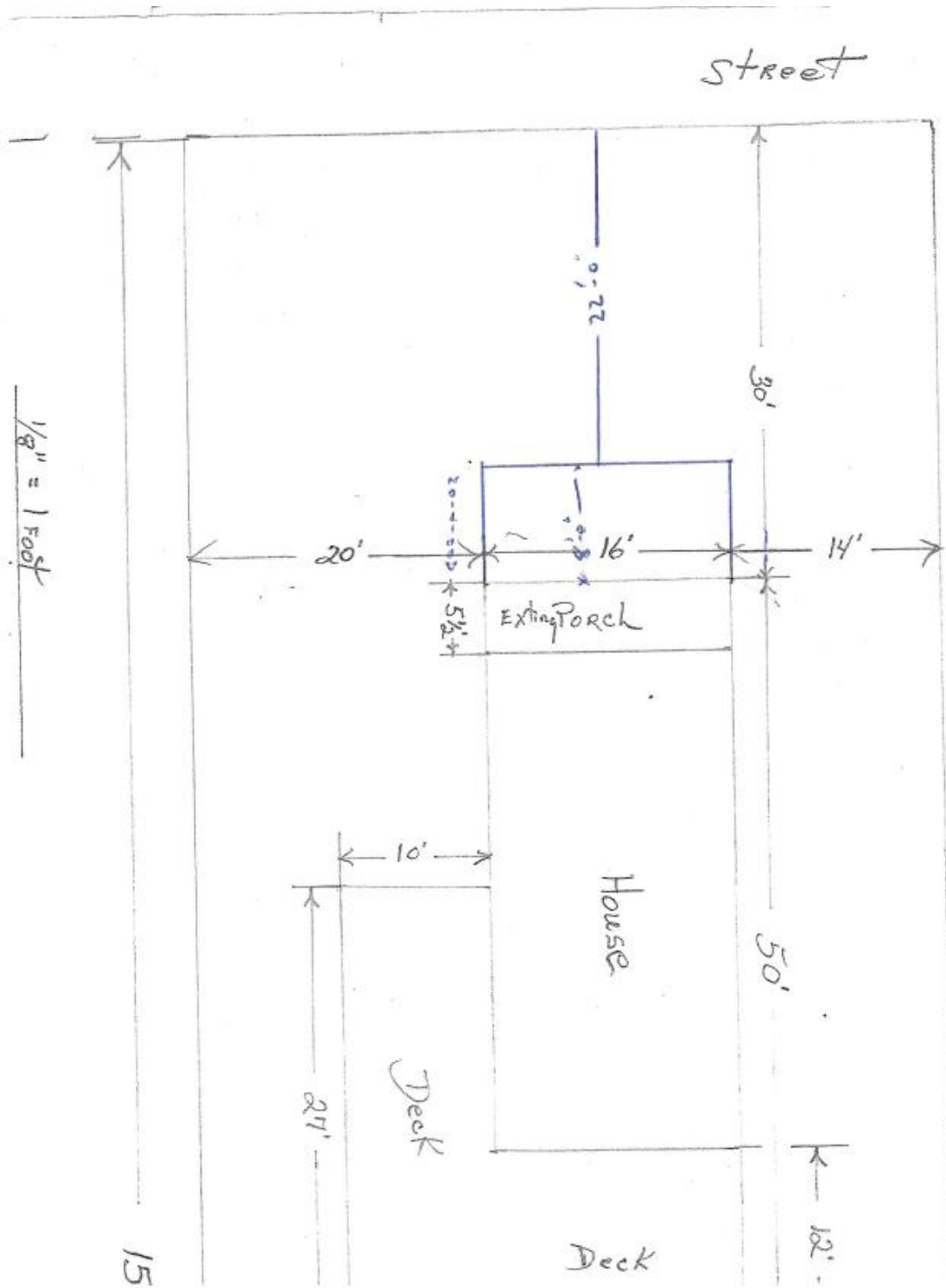
1. Zoning Map



## 2. Aerial Photograph



3. Site Plan



4. Site Photos



Front of subject property.



Left of subject property.





Right of subject property.



Across street.



Across street.



Variance area.



Variance area.