

Board of Zoning Adjustment

Staff Report

April 24, 2023



Case No:	23-VARIANCE-0057
Project Name:	3 rd Street Variance
Location:	2909 S. 3 rd St
Owner/Applicant:	Mary Kathleen and Fitzgerald Campbell
Applicant:	Kyle Onan, Creek Alley Contracting LLC
Jurisdiction:	Louisville Metro
Council District:	15- Jennifer Chappell
Case Manager:	Amy Brooks, Planner I

REQUEST:

Variance from the Land Development Code Table 5.2.2 to allow a primary structure to encroach into the side yard setback.

Location	Requirement	Request	Variance
Side Yard Setback	3 ft.	1 ft	2 ft.

CASE SUMMARY/BACKGROUND

The subject site is zoned R-7 Multi- Family Residential in the Traditional Neighborhood Form District. The property is located on the eastern side of 3rd Street in the South Louisville neighborhood near the University of Louisville . The subject property is currently developed with a 2.5 story structure and detached garage. The applicant is proposing to construct an addition to the back of the home with a cantilevered overhang that aligns with the wall of the house. As the current home encroaches into the side yard setback on the southern property line, the rear addition has triggered the need for a dimensional variance. The applicant has obtained signatures from applicable adjoining property owners; pursuant to the Board’s policies, this variance case may be reviewed as a non-hearing item.

STAFF FINDINGS

Staff finds that the requested variance is adequately justified based on staff’s analysis contained in the standard 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 the Land Development Code.

TECHNICAL REVIEW

The applicant is required to obtain a building permit and the structure may require alterations to the proposed building plans in order to meet building code requirements.

INTERESTED PARTY COMMENTS

Staff received

RELATED CASES:

None.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM TABLE 5.2.2

- (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.

- (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. In addition, there are other primary structures along this stretch of 3rd Street that encroach into the side yard setback.

- (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 proposed structure is similar to others in the neighborhood.

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 generally 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 create an unnecessary hardship on the applicant as the existing house is within required side yard setback line.

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 not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not begun construction.

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
N/A	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 15
N/A	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

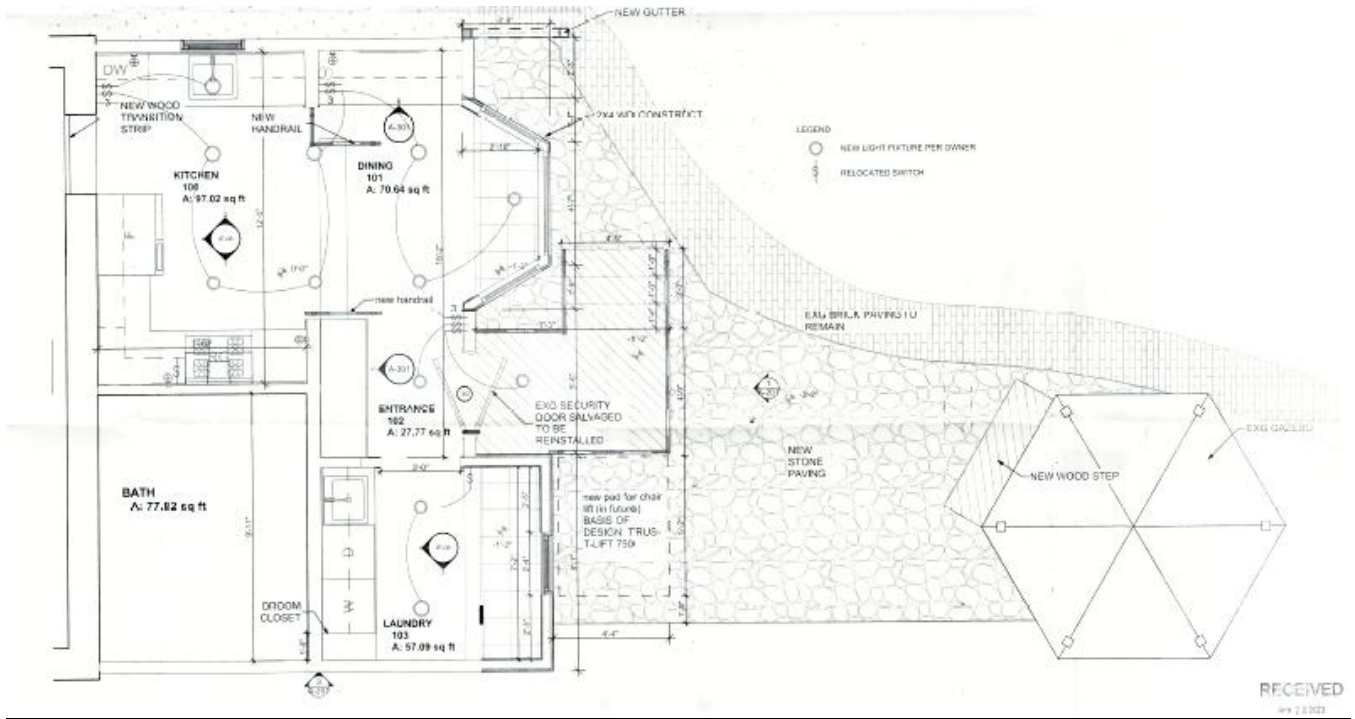
1. Zoning Map



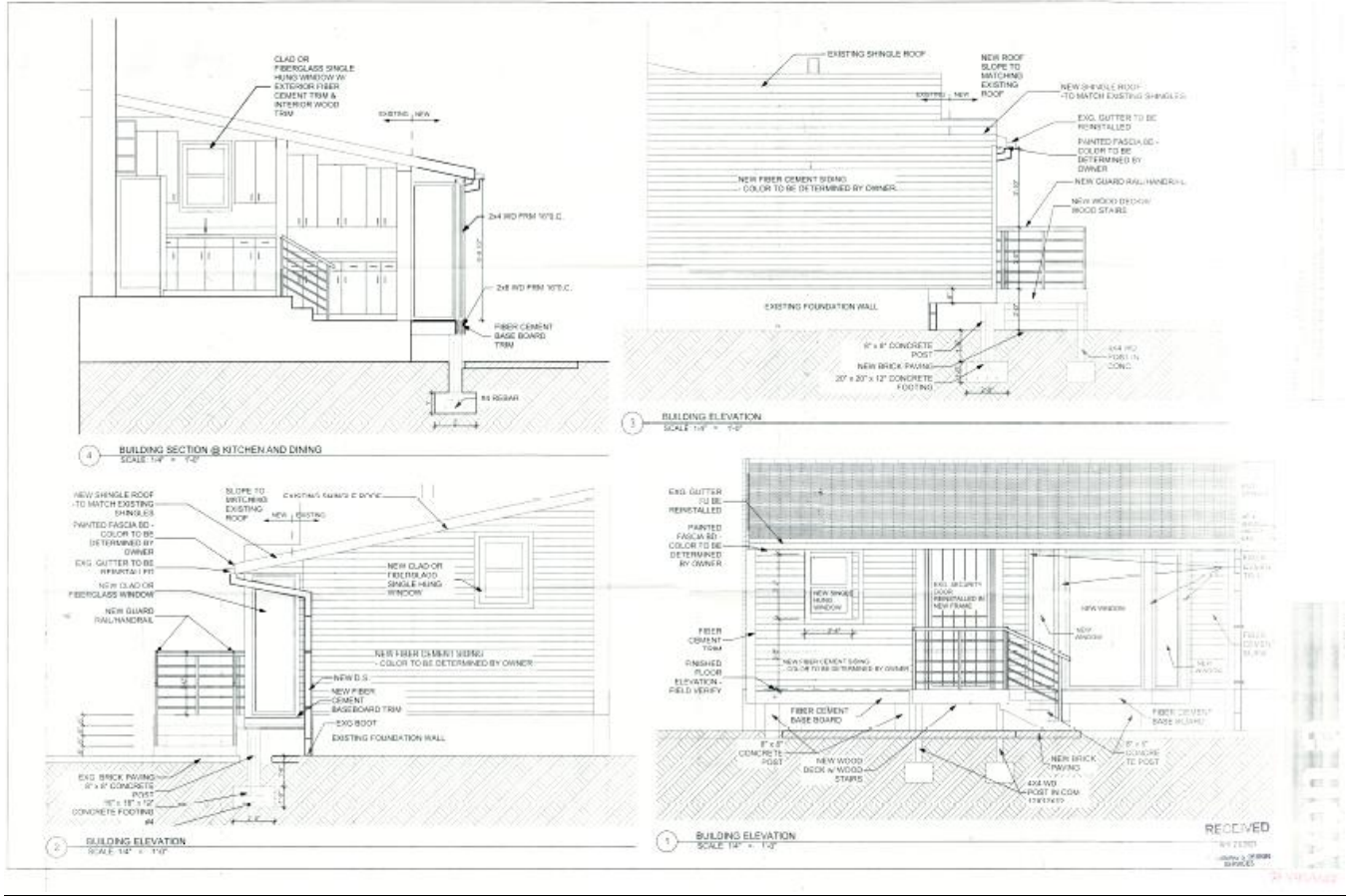
2. Aerial Photograph



3. Site Plan



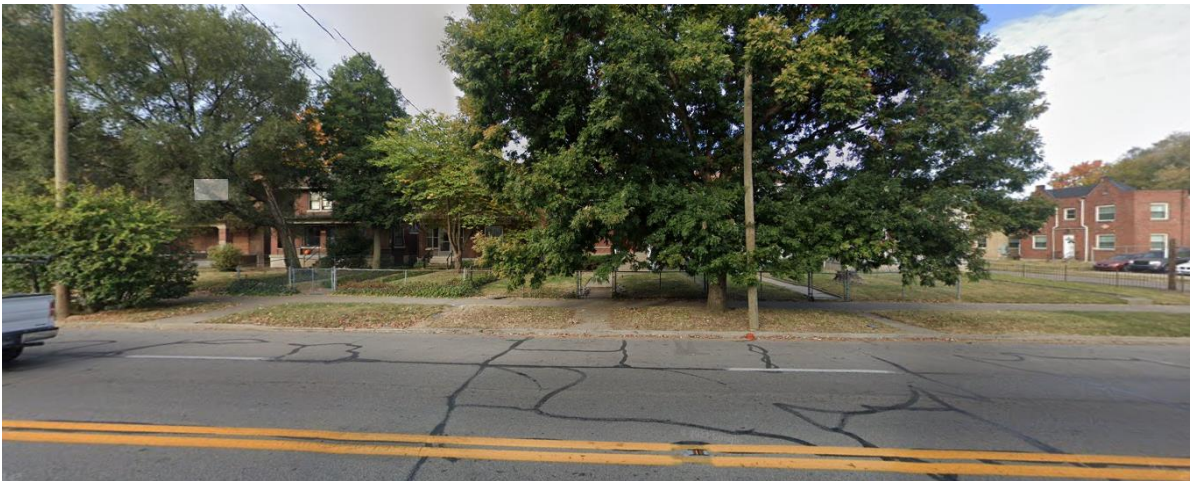
4. Elevation



5. Site Photos



Front of subject property with adjacent properties.



Properties across South 3rd Street



Rear of property from 2nd Street