

Board of Zoning Adjustment
Staff Report
 November 01, 2021



Case No:	21-VARIANCE-0131
Project Name:	East Caldwell Street Variance
Location:	436 E. Caldwell Street
Owner/Applicant:	Kendra Obannon
Jurisdiction:	Louisville Metro
Council District:	4 – Jecorey Arthur
Case Manager:	Heather Pollock, Planner I

REQUESTS:

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

Location	Requirement	Request	Variance
Side Yard	2.1 ft.	0 ft.	2.1 ft.
Street Side Yard	3 ft.	0 ft.	3 ft.

CASE SUMMARY/BACKGROUND

The subject property is zoned UN Single Family Residential and is in the Traditional Neighborhood Form District. It is located on the southwest corner of the intersection of E. Caldwell St. and S. Jackson St. in the Smoketown Jackson neighborhood. The site currently has three adjoined two-story structures and the applicant’s request is for the 2nd story addition to the 2nd and 3rd buildings that encroaches into the required side yard and street side yard setbacks.

The subject property is 21 feet in width. Land Development Code section 5.1.10.F allows for a lot less than 50 feet in width to have a side yard setback requirement of 10% of the width of the lot. The required side yard setback is therefore 2.1 feet.

STAFF FINDINGS

Staff finds that the requested variance meets standards (b), (c), and (d), but staff is concerned that the variance request does not meet standard (a) because maintenance of the addition may have an adverse impact on the adjoining property owner.

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 Land Development Code table 5.2.2 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-21-07072: Stop work order for unpermitted addition and renovation.

20-NONCONFORM-0012: Withdrawn change in nonconforming rights request to add a 2nd floor addition.

20-NONCONFORM-0005: Nonconforming rights for a Tavern in the UN zoning district.

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 proposed structure must be constructed to comply with all building codes, including fire codes; however, staff is concerned that the variance could adversely affect the adjacent property owner because maintenance of the structure may require encroachment onto the property.

- (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 addition will encroach the same distance as the existing 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 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 subject property is only 21 ft. in width and the addition will not encroach any further than the existing structure.

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 arise from special circumstances which do generally apply to land in the general vicinity or the same zone as the existing structures are nonconforming and already encroaching into the side yard and street side yard setbacks.

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 subject property is only 21 ft. in width. The existing structures are already encroaching into the side yard and street side yard setbacks and the proposed addition lines up with the existing footprint.

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 completed 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.

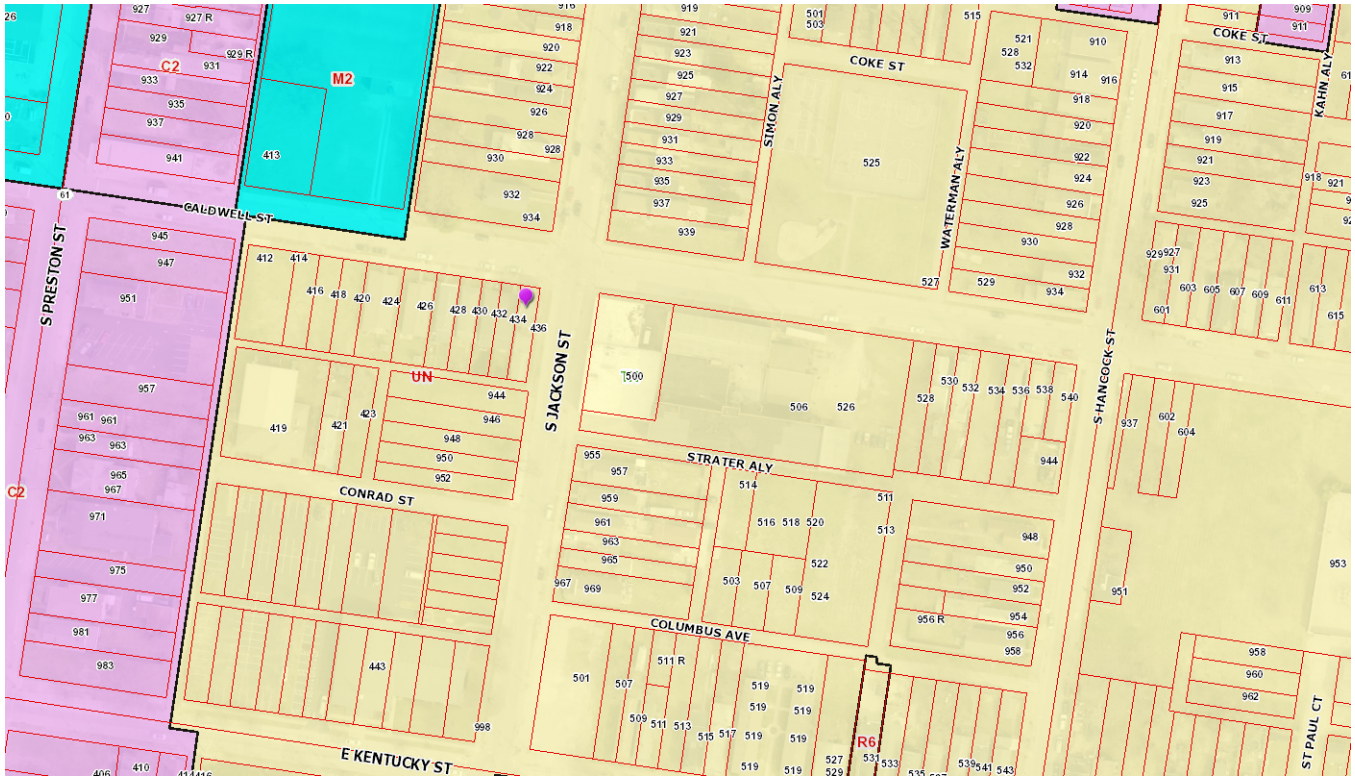
NOTIFICATION

Date	Purpose of Notice	Recipients
10/18/2021	Hearing before BOZA	1 st tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 4
10/19/2021	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

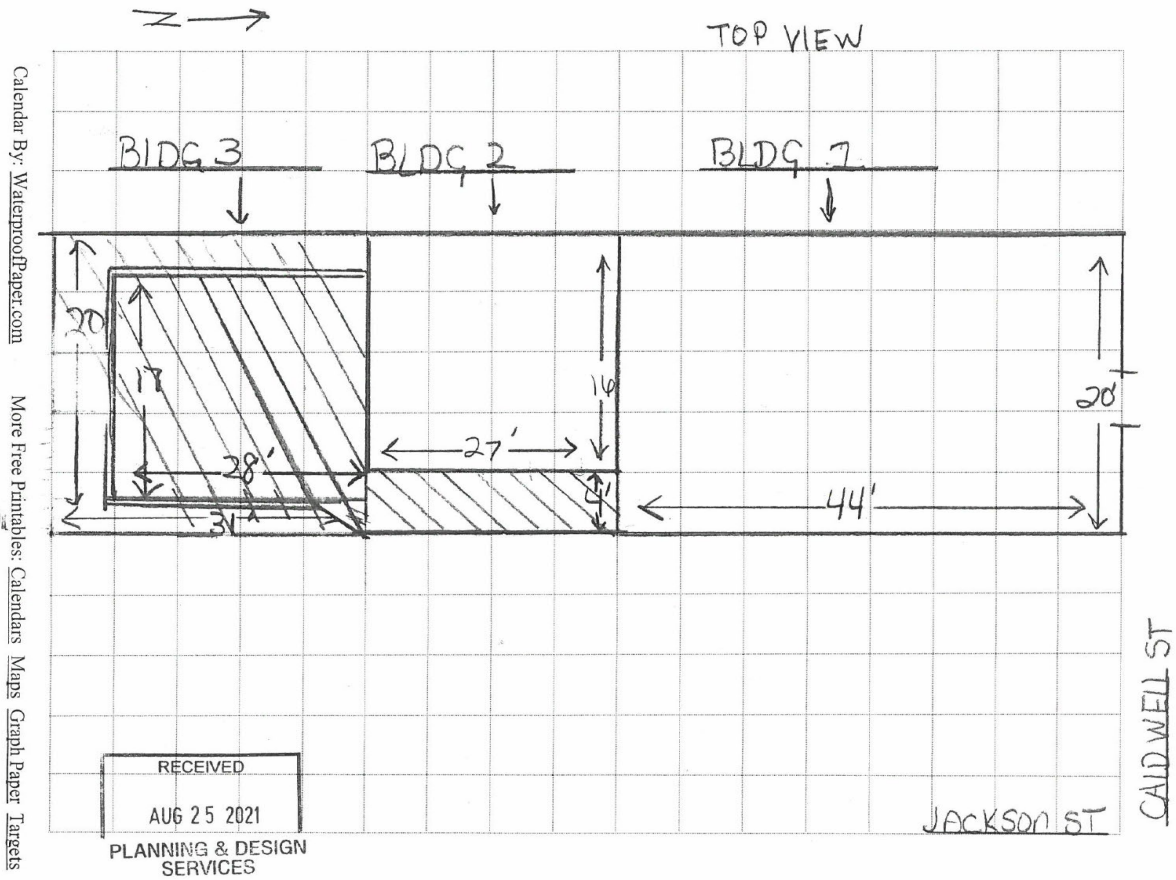
1. Zoning Map



2. Aerial Photograph



3. Site Plan



4. Site Photos



Front of subject property.



To the left of subject property, across S. Jackson St.



To the right of subject property.



View of variance area from S. Jackson St.



View of variance area along S. Jackson St. from rear of property.