

# Board of Zoning Adjustment

## Staff Report

January 24, 2022



<b>Case No:</b>	21-VARIANCE-0171
<b>Project Name:</b>	State Street Variance
<b>Location:</b>	156 State Street
<b>Owner/Applicant:</b>	Andrew Shelburne & Emily Hughes
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	9 – Bill Hollander
<b>Case Manager:</b>	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	3 ft.	0 ft.	3 ft.

**CASE SUMMARY/BACKGROUND**

The subject property is zoned R5-A Multi-Family Residential and is in the Traditional Neighborhood Form District. It is located on the west side of the 100 block of State Street in the Clifton neighborhood. The site currently has one story single family residence and the applicant has constructed an addition and deck that encroach into the required side yard setback.

**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**

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

## **INTERESTED PARTY COMMENTS**

No interested party comments were received by staff.

## **RELATED CASES**

ENF-BLD-20-05053: Building enforcement case for new exterior deck built without a building permit nor COA approval.

ENF-BLD-21-09577: Building enforcement case for rear addition and deck without permits.

ENF-ZON-21-001161: Zoning enforcement case for rear addition and deck.

21-COA-0253: Approved Certificate of Appropriateness for addition to rear of home, new deck and privacy fence.

## **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. Additionally, the addition has already received a Certificate of Appropriateness.

- (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 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 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 create an unnecessary hardship on the applicant as the has already been built. The existing structures are already encroaching into the side yard setback and the addition lines up with it.

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.

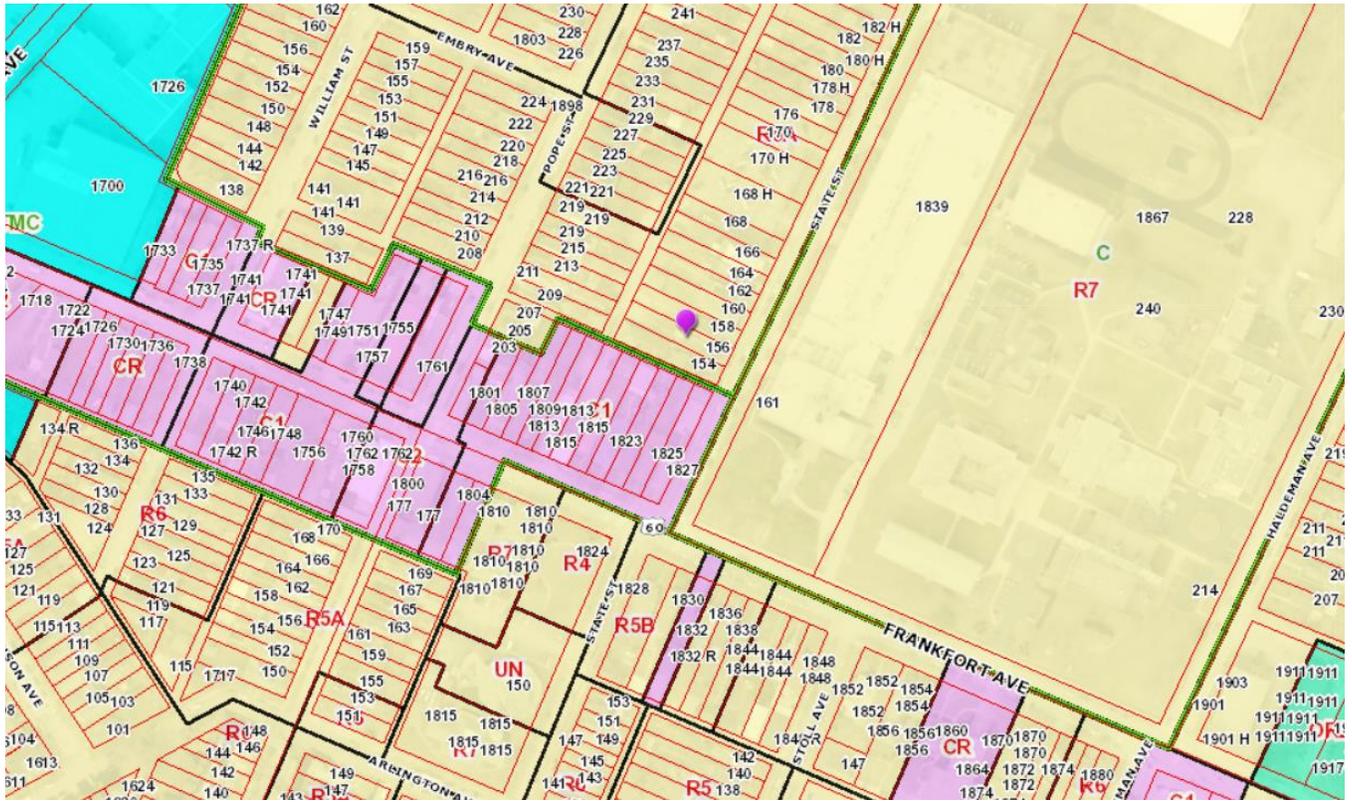
### **NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>01/06/2022</b>	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 9
<b>01/10/2022</b>	Hearing before BOZA	Notice posted on property

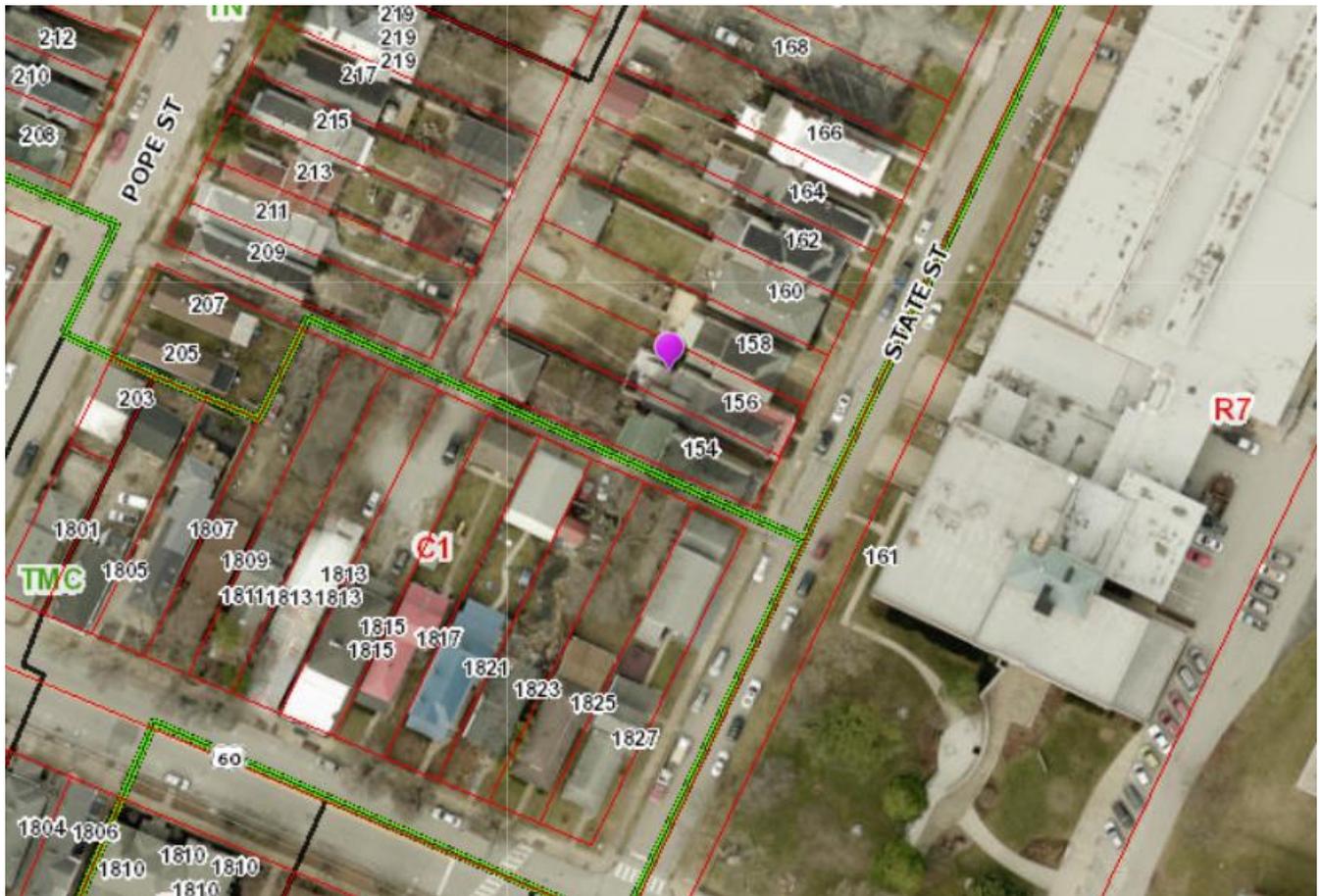
### **ATTACHMENTS**

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

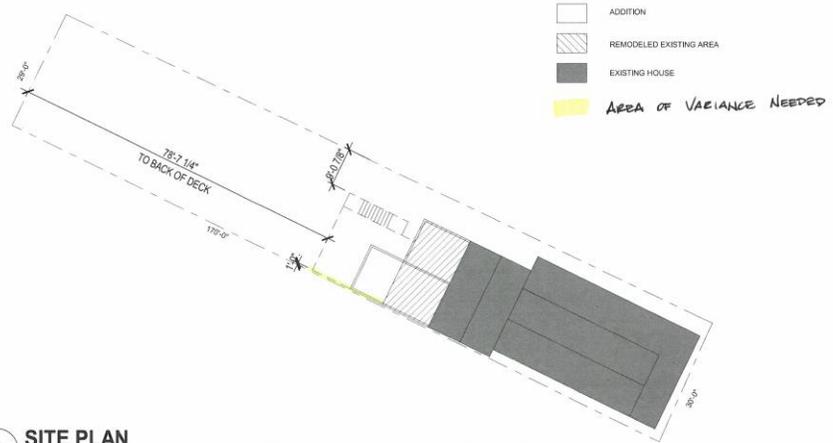
# 1. Zoning Map



## 2. Aerial Photograph



### 3. Site Plan



1 SITE PLAN  
1" = 20'-0"

156 STATE ST.  
LOUISVILLE KY, 40206

**SITE PLAN**  
SCALE: 1" = 20'-0"

RECEIVED  
NOV 16 2021  
PLANNING &  
DESIGN SERVICES

Andrew Shelburne

21 - VARIANCE - 0171

1. Site Photos



Front of subject property.



Variance area.



To the right of subject property.



View of subject property from alley.