

Board of Zoning Adjustment
Staff Report
October 28, 2019



Case No:	19-VARIANCE-0052
Project Name:	Winter Avenue Variance
Location:	1314 Winter Avenue
Owner/Applicant:	Lauren Winfield
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Zach Schwager, Planner I

REQUEST

- **Variance** from Land Development Code section 5.1.10.F to allow a structure to encroach into the required side yard setback.

Location	Requirement	Request	Variance
Side Yard	21 in.	13.8 in.	7.2 in.

CASE SUMMARY/BACKGROUND

The subject property is zoned R-5B and is in the Traditional Neighborhood Form District. It is located in the Original Highlands neighborhood on the north side of Winter Avenue and contains a 1 ½ -story single-family residence. The applicant has started construction on a second story addition to the rear of the residence that will encroach into the eastern side yard the same distance as the existing structure.

The subject property is 17.5 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 1.75 feet (21 in.).

STAFF FINDING

Staff finds that the requested variance is adequately justified and meets 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 standard of granting a variance established in the Land Development Code from section 5.1.10.F to allow an addition to encroach into the required eastern side yard setback.

Condition of Approval:

#1) Based upon the survey submitted on September 23, 2019, the eastern side property line shall be staked in the field. No projections from the façade or building foundation shall cross the property line; any such projections shall be accommodated by stepping back the proposed structure from the property line.

INTERESTED PARTY COMMENTS

No interested party comments were received.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.1.10.F

- (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 as the structure will need to 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 additions will be setback 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 as the additions will be setback the same distance as the existing structure.

- (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 encroachment is the same as the existing side yard setback.

ADDITIONAL CONSIDERATIONS:

1. The requested variance does 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 generally apply to land in the general vicinity or the same zone as the subject property is similar in size and shape to 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 they would have to setback an addition more than the existing structure.

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 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 after beginning construction on the addition.

NOTIFICATION

Date	Purpose of Notice	Recipients
10/11/2019	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 8
10/10/2019	Hearing before BOZA	Notice posted on property

ATTACHMENTS

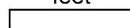
1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Site Photos

1. **Zoning Map**



1314 Winter Avenue

feet



Map Created: 10/22/2019

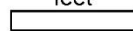


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2. Aerial Photograph



1314 Winter Avenue
feet

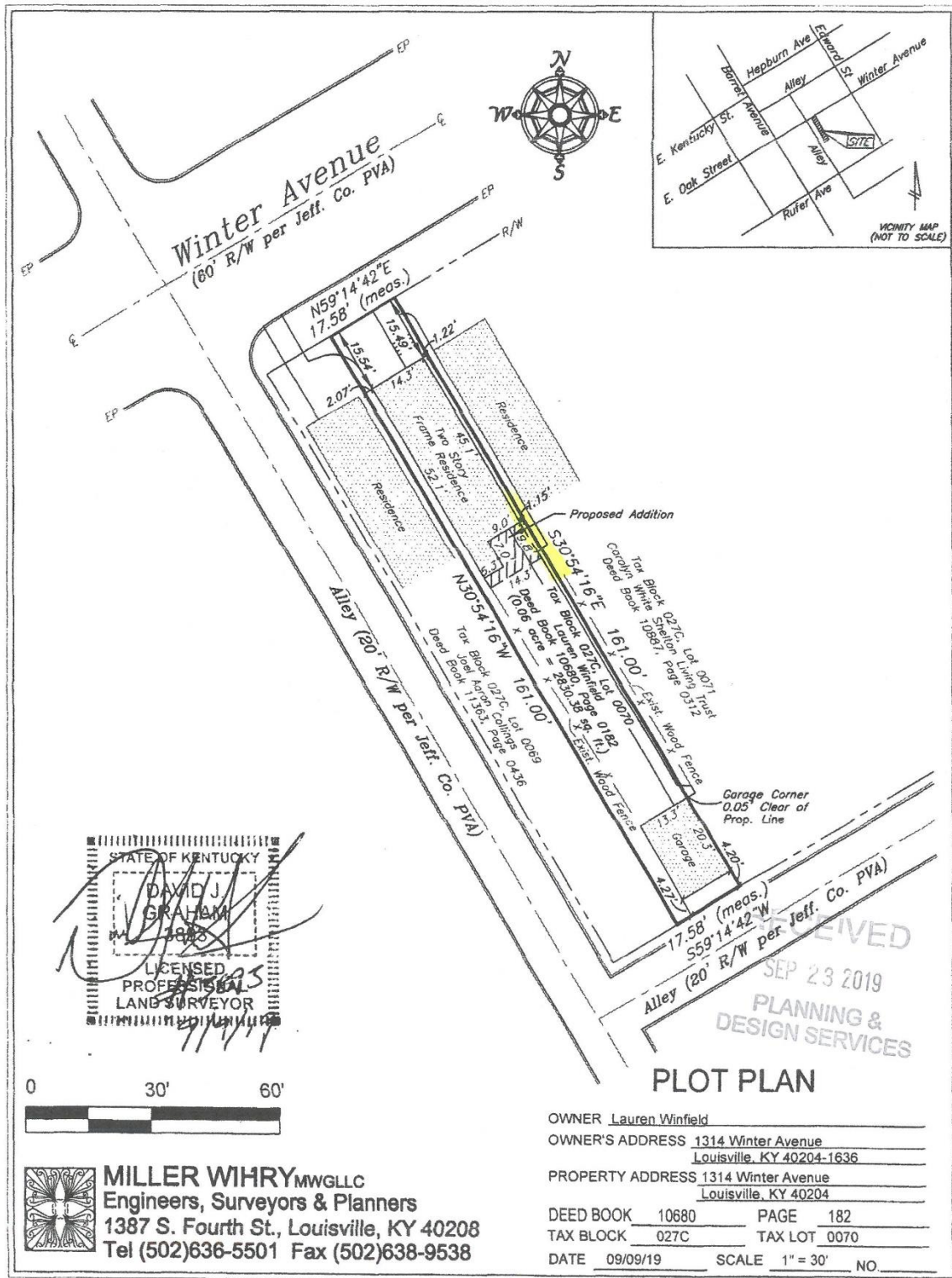


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Map Created: 10/22/2019



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3. Site Plan



4. Site Photos



The front of the subject property.



The property to the left.



The property to the right.



Properties across Winter Avenue.



Variance area.



Variance area.