

# Board of Zoning Adjustment

## Staff Report

March 20, 2023



**Case No:** 23-VARIANCE-0009  
**Project Name:** Sherwood Avenue Variance  
**Location:** 2082 Sherwood Avenue  
**Owner:** Angie Kinser  
**Applicant:** Anne Delprince  
**Jurisdiction:** Louisville Metro  
**Council District:** 8-Vacant  
**Case Manager:** Amy Brooks, Planner I

### **REQUEST:**

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

| Location          | Requirement | Request | Variance |
|-------------------|-------------|---------|----------|
| Side Yard Setback | 3 ft.       | 1.0 ft. | 2.0 feet |

### **CASE SUMMARY/BACKGROUND**

The subject site is zoned R-5A Multi- Family Residential in the Traditional Neighborhood Form District. The property is located on the southern side of Sherwood Avenue in the Bonnycastle Neighborhood. The subject site is currently developed with a two-story duplex. The applicant is proposing to replace the rear exterior access stairs and upper and lower landings that are anchored to the principal structure. As the existing principal structure encroaches into the side yard setback on the northeastern property line, the exterior steps and landing replacements have triggered the need for a dimensional variance.

### **STAFF FINDINGS**

Staff finds that the requested variance for the side yard setback has been 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**

None

## **INTERESTED PARTY COMMENTS**

No interested party comments were received by staff.

## **RELATED CASES:**

None.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM Section 5.1.12.B.2.e.i.1**

- (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 stairs and landings 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 requested variance will not alter the essential character of the general vicinity as there are other principal structures along this stretch of Sherwood Avenue that seemingly encroach into the side setback. In fact, the property at 2124 Sherwood Avenue that shares the side alleyway with 2082 Sherwood Avenue is developed with a principal structure that appears to encroach into the side 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 access stairs and landings 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. The variance is only being triggered because the applicant is proposing to replace a set of older stairs and two landings on the exterior rear wall of the duplex. The proposed stairs and attached landings will not encroach anymore into the side setback than the current principal structure does.

## **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 applicant is only replacing the aging stairs and two landings

that are existing on the principal structure. The proposed construction will not encroach any further into the side setback than the current footprint of the house does.

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 has not begun construction and has requested a 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                                           |
|------------|---------------------|------------------------------------------------------|
| 03/02/2023 | Hearing before BOZA | 1 <sup>st</sup> tier adjoining property owners       |
| 03/02/2023 |                     | Registered Neighborhood Groups in Council District 8 |
| 3/6/2023   | Hearing before BOZA | Notice posted on property                            |

### **ATTACHMENTS**

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

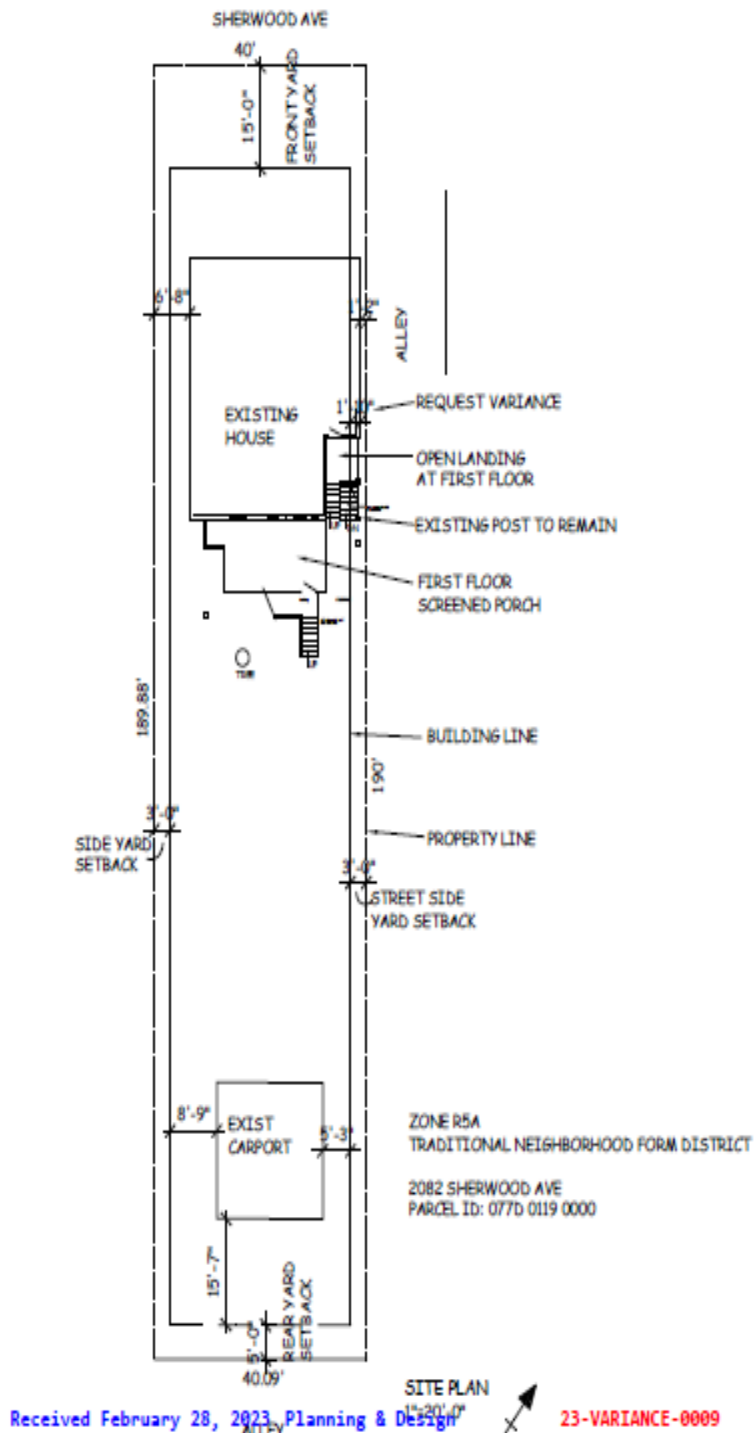
1. Zoning Map



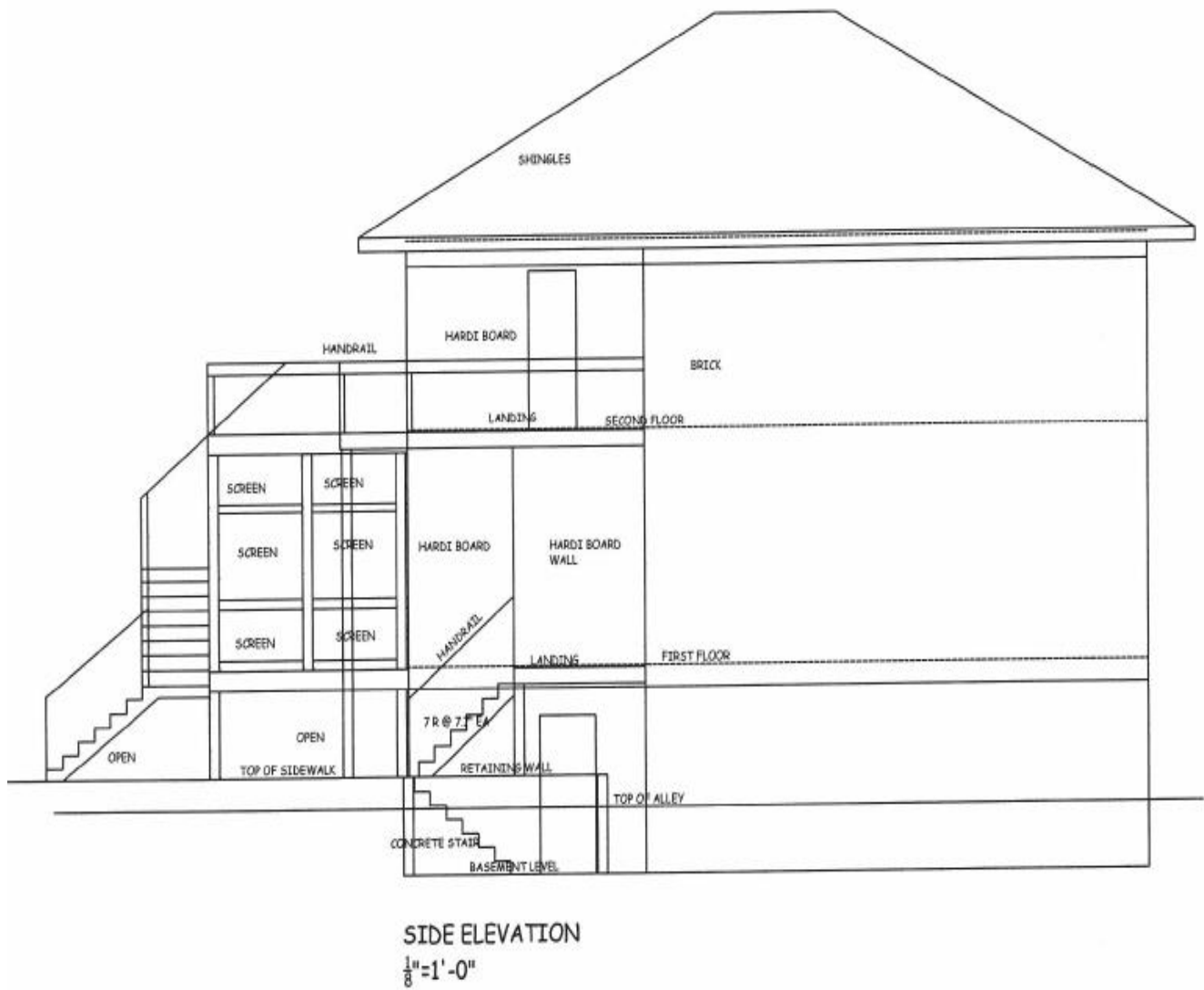
## 2. Aerial Photograph



### 3. Site Plan



#### 4. Elevations





5. Site Photos



Front of subject property.





**Right of subject site.**



**Left of subject site.**





**Properties across the street from subject property along Sherwood Avenue**





**View of Variance Area**



**View of variance area.**



**View from rear of property.**