

# Board of Zoning Adjustment

## Staff Report

October 30, 2017



|                          |                              |
|--------------------------|------------------------------|
| <b>Case No:</b>          | 17VARIANCE1065               |
| <b>Project Name:</b>     | 2391 Hawthorne Avenue Deck   |
| <b>Location:</b>         | 2391 Hawthorne Avenue        |
| <b>Owner(s):</b>         | Hanns Georg & Tara Reck      |
| <b>Applicant:</b>        | Hanns Georg Reck             |
| <b>Jurisdiction:</b>     | Louisville Metro             |
| <b>Council District:</b> | 8 – Brandon Coan             |
| <b>Case Manager:</b>     | Dante St. Germain, Planner I |

### REQUEST

- **Variance** from Land Development Code section 5.1.12.B.2.e.i.1 to allow a structure to encroach into the required infill street side yard setback.

| Location         | Requirement | Request | Variance |
|------------------|-------------|---------|----------|
| Street Side Yard | 6.5 ft.     | 0 ft.   | 6.5 ft.  |

### CASE SUMMARY/BACKGROUND

The subject property is a corner lot located in the Hawthorne neighborhood, at the northwestern corner of the intersection of Hawthorne Avenue and Montrose Avenue. It is lot 21 of the Bon Air subdivision, recorded in 1909 in plat book 1, page 212. The property is zoned R-5 Single Family Residential, and is located in the Neighborhood form district. It currently contains a 1 ½ story single-family residence with a detached garage. The applicant proposes to construct a new uncovered deck to the rear of the residence, with the deck extending into the street side yard required by infill standards in LDC section 5.1.12. The non-infill street side yard setback would be 25 feet, but by infill standards the setback is 6.5 feet. The applicant requests a variance to allow the deck's encroachment into the infill street side yard setback.

### 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 standards for granting a variance established in the Land Development Code from section 5.1.12.B.2.e.i.1 to allow a structure to encroach into the required infill street side yard setback.

### TECHNICAL REVIEW

- No technical review was undertaken.

## **INTERESTED PARTY COMMENTS**

No interested party comments were received.

## **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 as the existing residence already encroaches into the required street side yard, which has created no known adverse effect, and so the deck is unlikely to create an adverse effect.

- (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 neighborhood is characterized by a traditional street pattern despite being in a suburban form district, with structures encroaching into the required yards.

- (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 deck will not obstruct sight lines or create a hazard at the corner.

- (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 deck is uncovered and open to the sky, and the location of the proposed deck is the only location which is reasonable for a deck to be located on this property.

## **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 arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the residence on the lot already encroaches into the required street side yard setback, and the location of the detached garage precludes the deck from extending backward from the house.

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 by preventing the applicant from constructing the deck needed to improve the utility of the residence by allowing for a place to gather and entertain.

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 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.

#### **NOTIFICATION**

| Date       | Purpose of Notice   | Recipients                                                                                             |
|------------|---------------------|--------------------------------------------------------------------------------------------------------|
| 10/11/2017 | Hearing before BOZA | 1 <sup>st</sup> tier adjoining property owners<br>Registered Neighborhood Groups in Council District 8 |
| 10/13/2017 | Hearing before BOZA | Notice posted on property                                                                              |

#### **ATTACHMENTS**

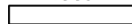
1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Elevation
5. Site Photos

1. Zoning Map



2391 Hawthorne Avenue

feet



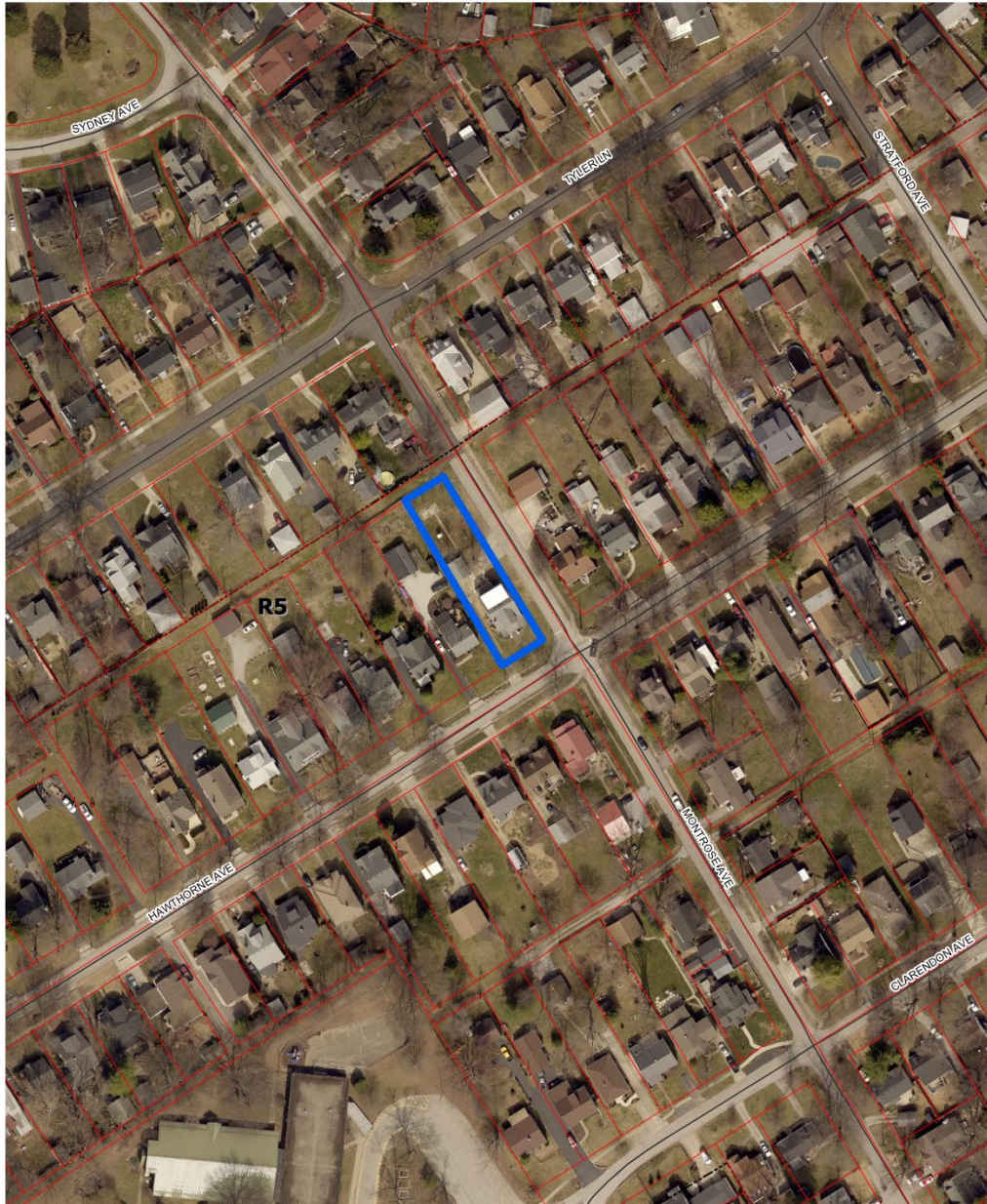
130

Map Created: 10/19/2017

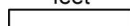


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## 2. Aerial Photograph



2391 Hawthorne Avenue  
feet



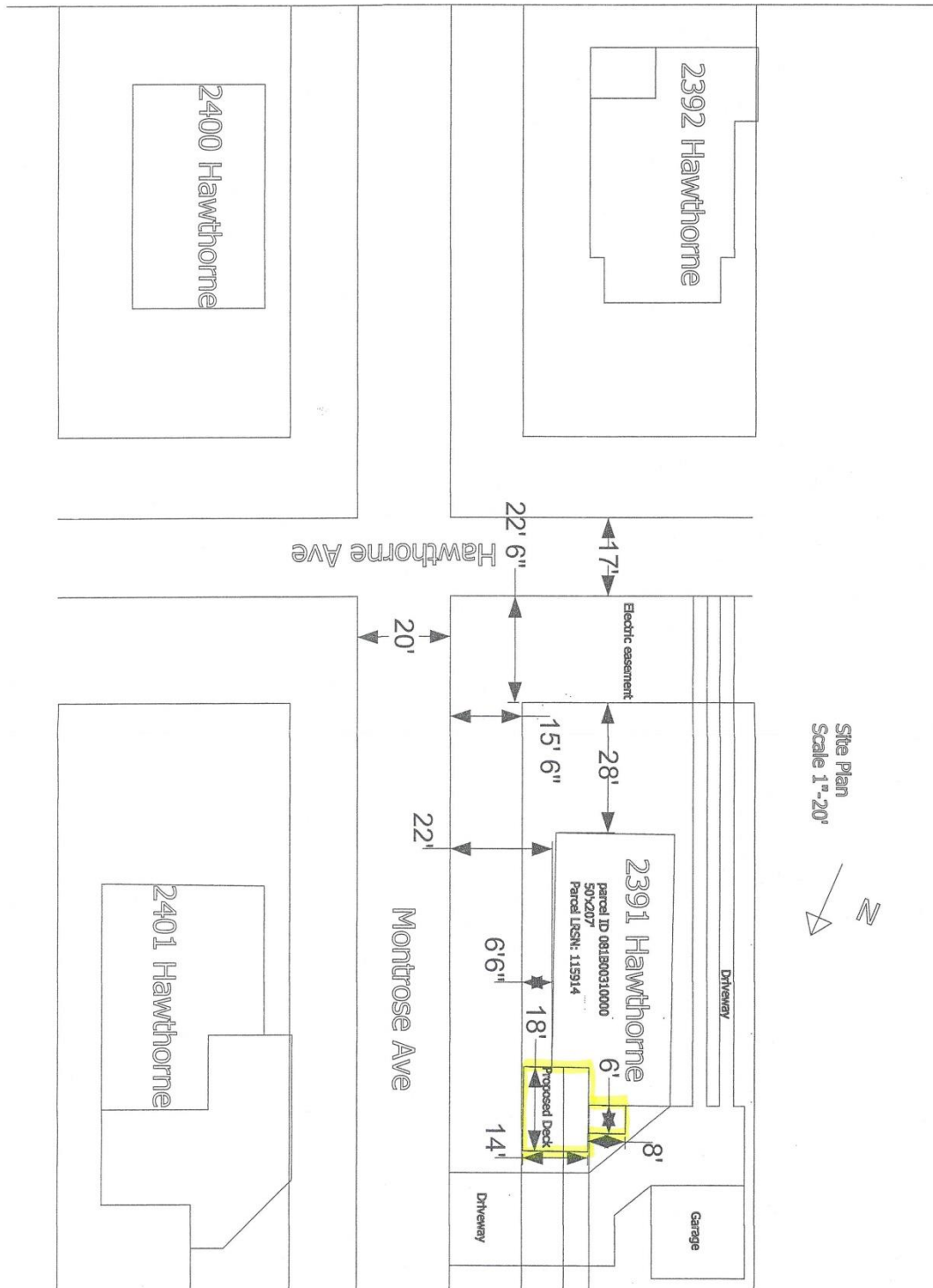
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Map Created: 10/19/2017

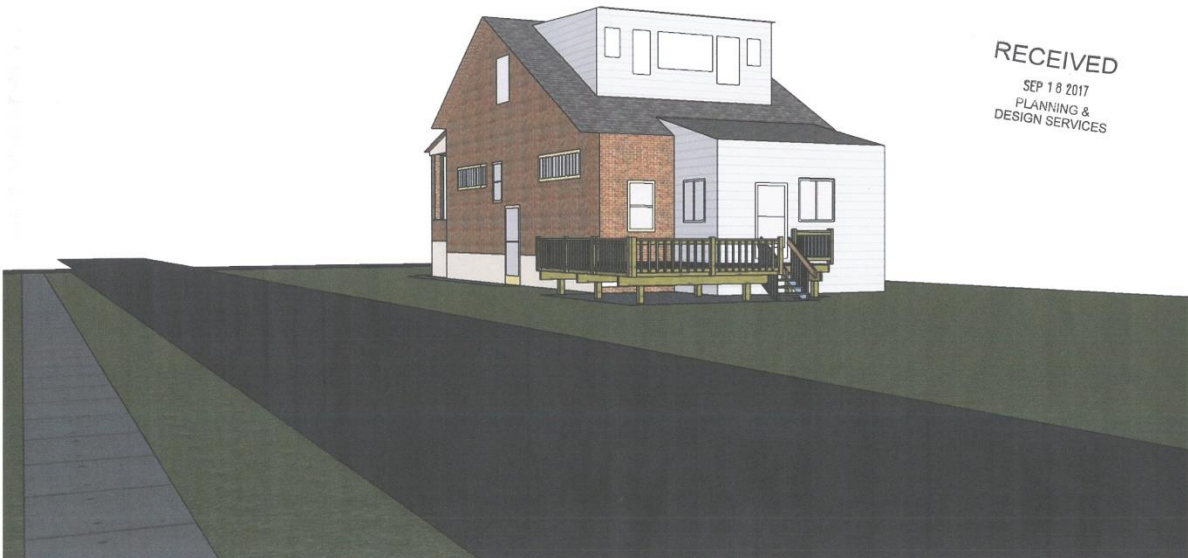


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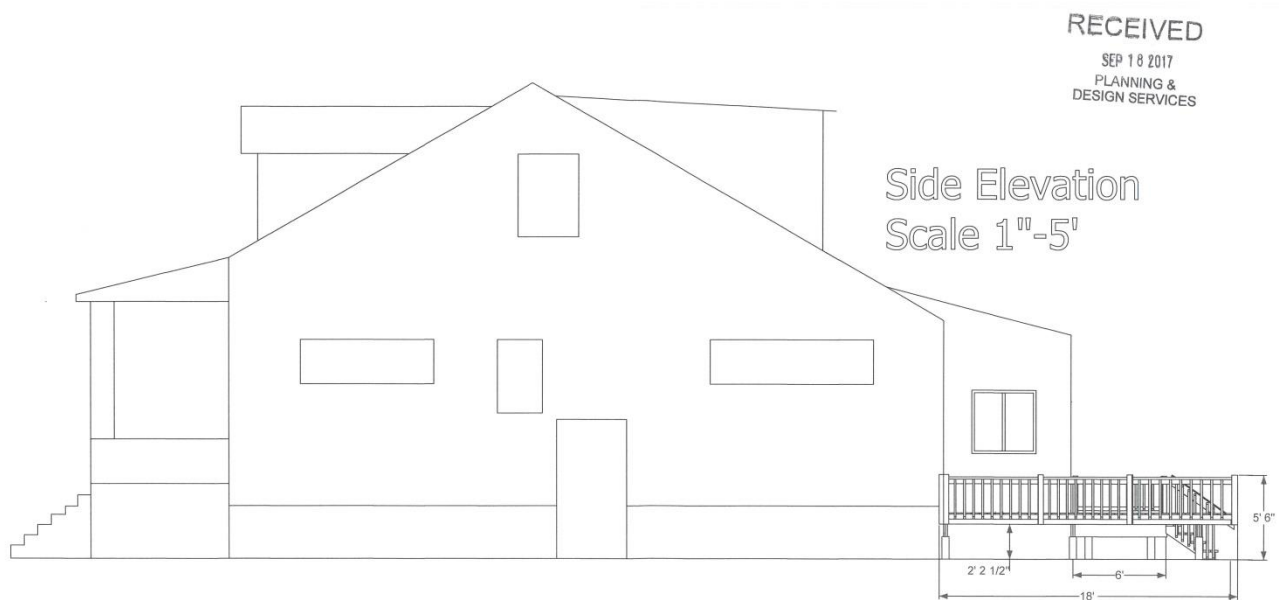
3. Site Plan



#### 4. Elevation



17 VARIANCE 1065



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Rear Elevation  
1"-5'



RECEIVED

SEP 18 2017  
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DESIGN SERVICES

17 VARIANCE 1065

5. Site Photos



The front of the subject property.



The property to the left of the subject property.



The property across Montrose Avenue.



The properties across Hawthorne Avenue.



The street side yard of the subject property.



The proposed location of the deck has been staked out.



The proposed location of the deck.