

**Board of Zoning Adjustment**  
**Staff Report**  
 February 20, 2023



<b>Case No:</b>	23-MVARIANCE-0001
<b>Project Name:</b>	Rudy Lane Variance
<b>Location:</b>	623 Rudy Lane
<b>Owner:</b>	Kurt Showalter & Loretta Showalter
<b>Applicant:</b>	Zach Schwager
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	7 – Paula McCraney
<b>Case Manager:</b>	Amy Brooks, Planner I

**REQUEST**

- **Modified Variance** from Land Development Code section 5.4.2.A.2.a to allow a structure to encroach into the required rear yard setback.

Location	Requirement	Request	Variance
<b>Rear Yard Setback</b>	25 ft.	13 ft.	12 ft.

**CASE SUMMARY/BACKGROUND**

The subject property is zoned R-3 and is in the Neighborhood form district. It is located in the Merrifield Subdivision in the City of Windy Hills and contains a one-story single-family residence. The applicant was approved for a variance in 2019 that allowed an addition to the principal structure to encroach 13 feet into the required rear setback. Because this encroachment was more than the 30% allowed by the LDC into the required rear yard, a variance was required.

Currently, the applicant has modified the floor plan and is now proposing an addition that extends 8.5 feet further toward the side property line.

Although the new revised floor plans for the principal structure’s addition does not encroach into the required rear setback any more distance than what was approved in 2019, the proposed extension of the structure toward the side property line is increasing the structure’s overall volume and triggering the need for a modified variance.

**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 5.4.2.A.2.a to allow a structure to encroach into the required rear yard setback.

## **INTERESTED PARTY COMMENTS**

Applicant submitted signatures from adjoining property owners.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.4.2.A.2.a**

- (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 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 addition is consistent with other primary structures within in the subdivision.

- (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 it is located to the rear of the property away from the public realm and maintains consistent setbacks to what is found in the area

- (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 it presents no adverse impacts to public safety, does not alter the character, and does not create a hazard or nuisance.

## **ADDITIONAL CONSIDERATIONS:**

1. The requested variance does not 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 to the surrounding properties.

2. The strict application of the provisions of the regulation would not 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 because the applicant has already been approved for a variance that allows encroachment of a primary structure into more than 30% of the area of the required 25 feet rear yard setback.

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**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>N/A</b>	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 7
<b>N/A</b>	Hearing before BOZA	Notice posted on property

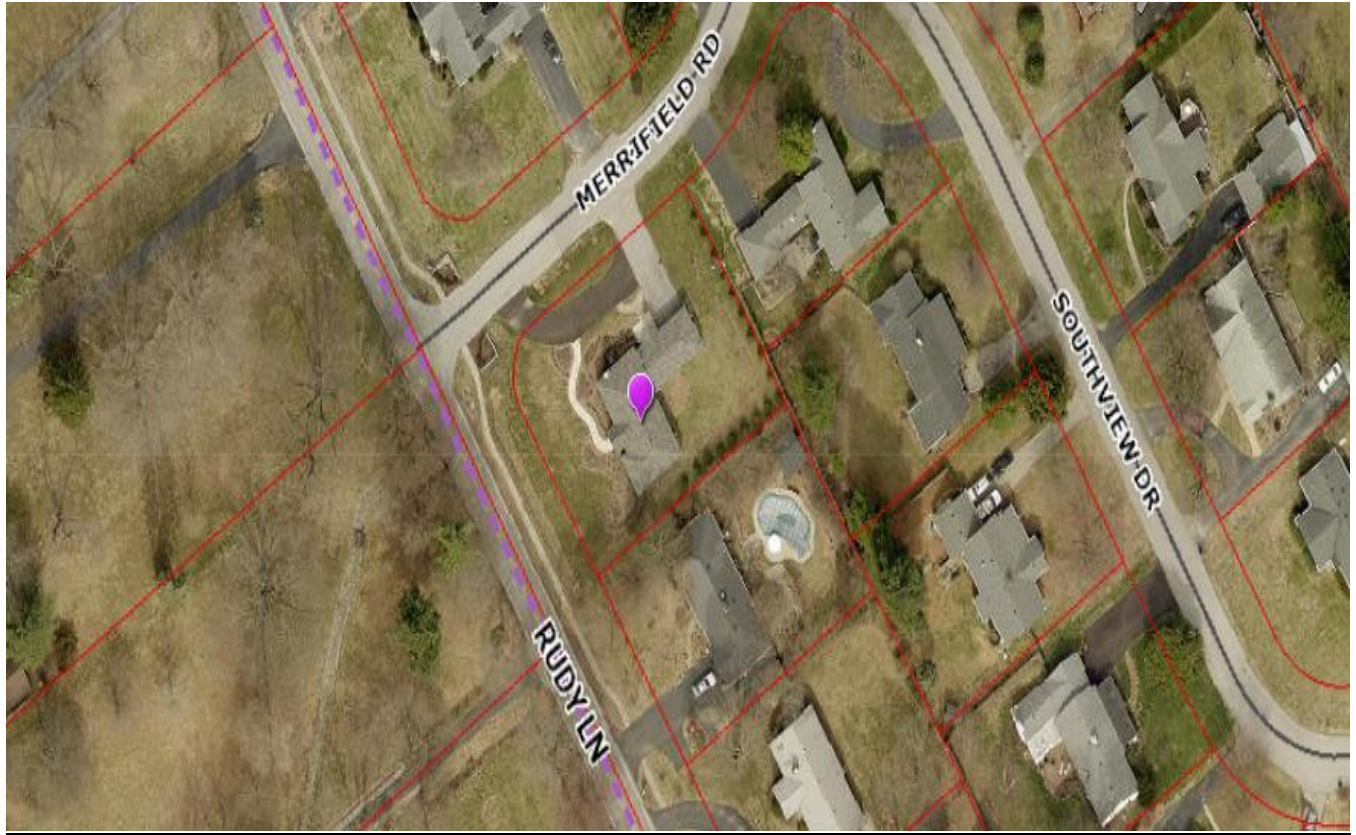
**ATTACHMENTS**

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

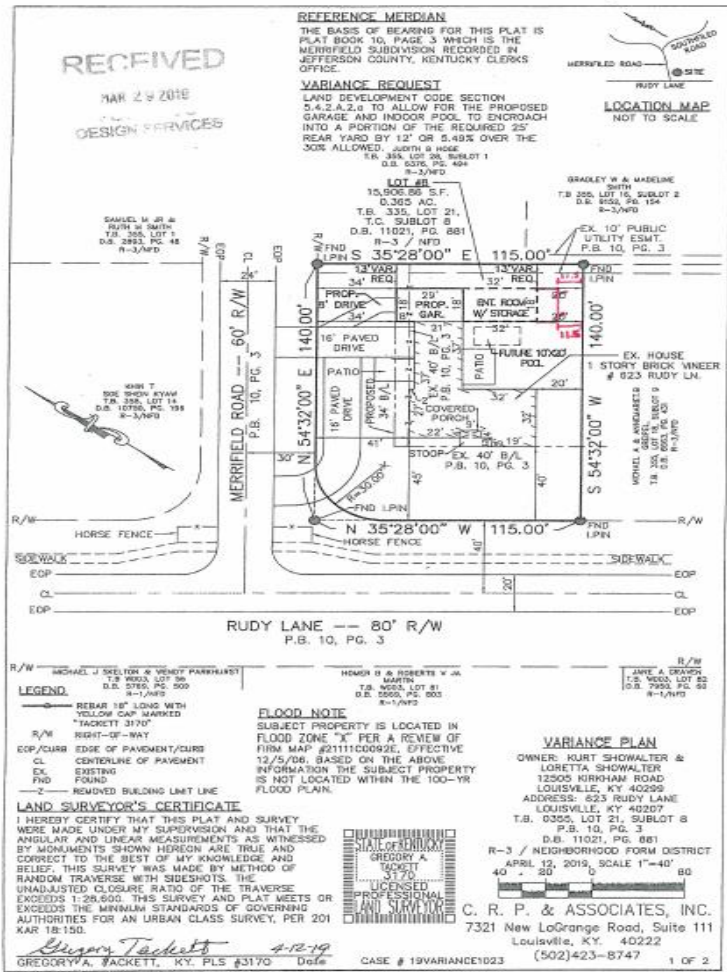
1. Zoning Map



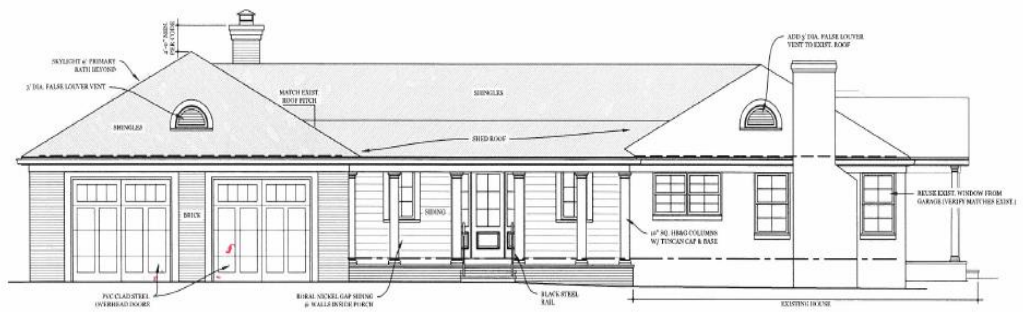
2. Aerial Photograph



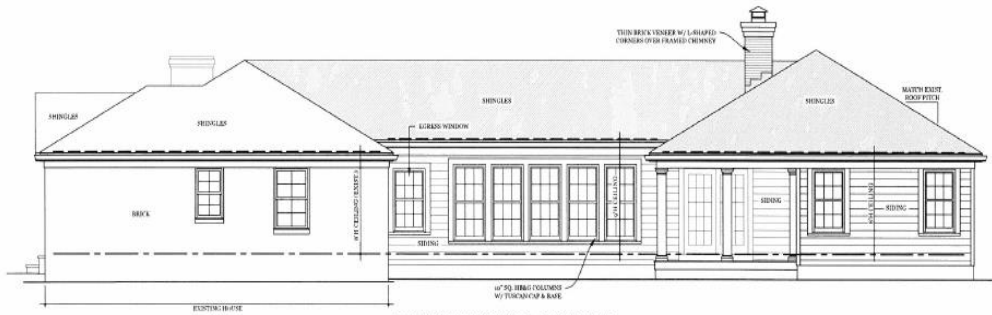
3. Site Plan



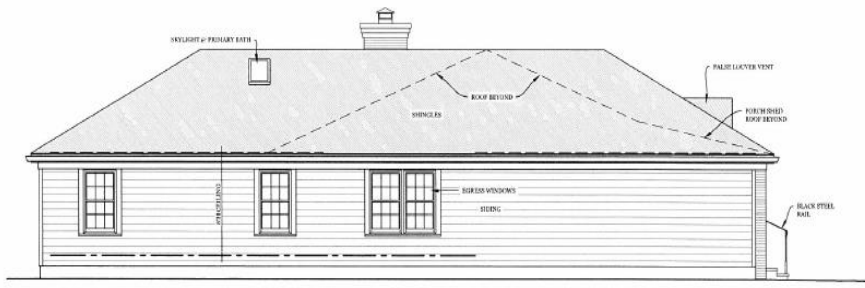
4. Renderings



LEFT SIDE ELEVATION - SOUTHWEST  
SCALE: 1/8"=1'-0"



RIGHT SIDE ELEVATION - NORTHEAST  
SCALE: 1/8"=1'-0"



REAR ELEVATION - NORTHWEST  
SCALE: 1/8"=1'-0"

5. **Site Photos**



Front of subject property, Google street view, 2021.





To the right of subject property.



To the left of subject property.



Property across Rudy Lane.

Variance area from Merrifield Road.





Variance area from Merrifield Road.



Variance from rear of area.