

# Board of Zoning Adjustment Staff Report

February 20<sup>th</sup>, 2023



<b>Case No:</b>	22-VARIANCE-0142
<b>Project Name:</b>	Rammers Avenue Variance
<b>Location:</b>	1209 Rammers Avenue
<b>Owner:</b>	Andrew Max Balliet
<b>Applicant:</b>	Andrew Max Balliet
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	6 – Phillip Baker
<b>Case Manager:</b>	Molly Clark, Planner II

## REQUESTS

- **Variance** from Land Development Code section 5.2.2 to allow a second story to encroach into the required 3 ft setback.
- **Variance** from Land Development Code section 5.1.12 to allow a second story to exceed the max height based on infill standards.

Location	Requirement	Request	Variance
Side Yard	3 ft	0 ft	3 ft
Height (Infill)	1 story	2 stories	1 story

## CASE SUMMARY/BACKGROUND

The subject site is .0715 acres and is zoned R-6 multi-family in the Traditional Neighborhood Form District. The subject site currently has a 1 story single family home. The applicant is proposing to construct a 672 SF second story addition. The proposed second story will encroach into the side yard setback along the north property line and will exceed the maximum height allowed based on infill standards, which is a one-story height.

## STAFF FINDING

Staff finds that the requested side yard variance and height variance are adequately justified and meet the all the standard. Staff received an email from the property owner of 1207 Rammers Avenue that they “authorize access of [their] yard for the renovation at 1209 Rammers Avenue, should it be needed.”

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

There are no outstanding technical issues with this request.

## INTERESTED PARTY COMMENTS

None.

## RELATED CASES

None.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.2.2 to allow a second story to encroach into the required 3 ft setback:**

- (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 structure 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 existing home and surrounding homes are built to similar setbacks from side property lines.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The addition will not cause a hazard or nuisance to the public since it is required to meet all applicable requirements of the building code

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The proposed setback would not be an unreasonable circumvention of the zoning regulations because the proposed setback is consistent with the existing structure and to surrounding structures in the neighborhood.

**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 arise from special circumstances which do generally apply to land in the general vicinity or the same zone because this property is located in a subdivision that was created and built before zoning regulations. The lot is the same size and shape in comparison 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 subject site is a narrow lot and the applicant is restricted by the narrow lot width. The applicant is also constructing the addition over the existing 1 story building footprint and bringing the addition away from the side yard may cause issues in the construction of the structure due to the location of existing load bearing walls..

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 has not begun construction.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.1.12 to allow a second story to exceed the max height based on infill standards:**

- (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 structure 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: Although along this block the neighborhood is mostly one story there are 1.5 and 2 story structures within the neighborhood along other blocks. In addition, the proposed second story addition would not exceed the maximum building height of the Traditional Neighborhood Form District.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The addition will not cause a hazard or nuisance to the public since it is required to meet all applicable requirements of the building code.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The height variance will not be an unreasonable circumvention of the zoning regulations since there are other structures in the neighborhood that are taller than 1 story and the proposed addition will meet the maximum height required for non-infill developments.

**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 arise from special circumstances which do generally apply to land in the general vicinity or the same zone because this property is located in a subdivision that was created and built before zoning regulations. The lot is the same size and shape in comparison 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 since other 1.5 and 2 story structures exist in the neighborhood and the application of the infill standard in this situation would require a shorter home than what could normally be building in non-infill context.

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 has not begun construction.

**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.

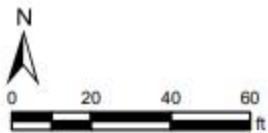
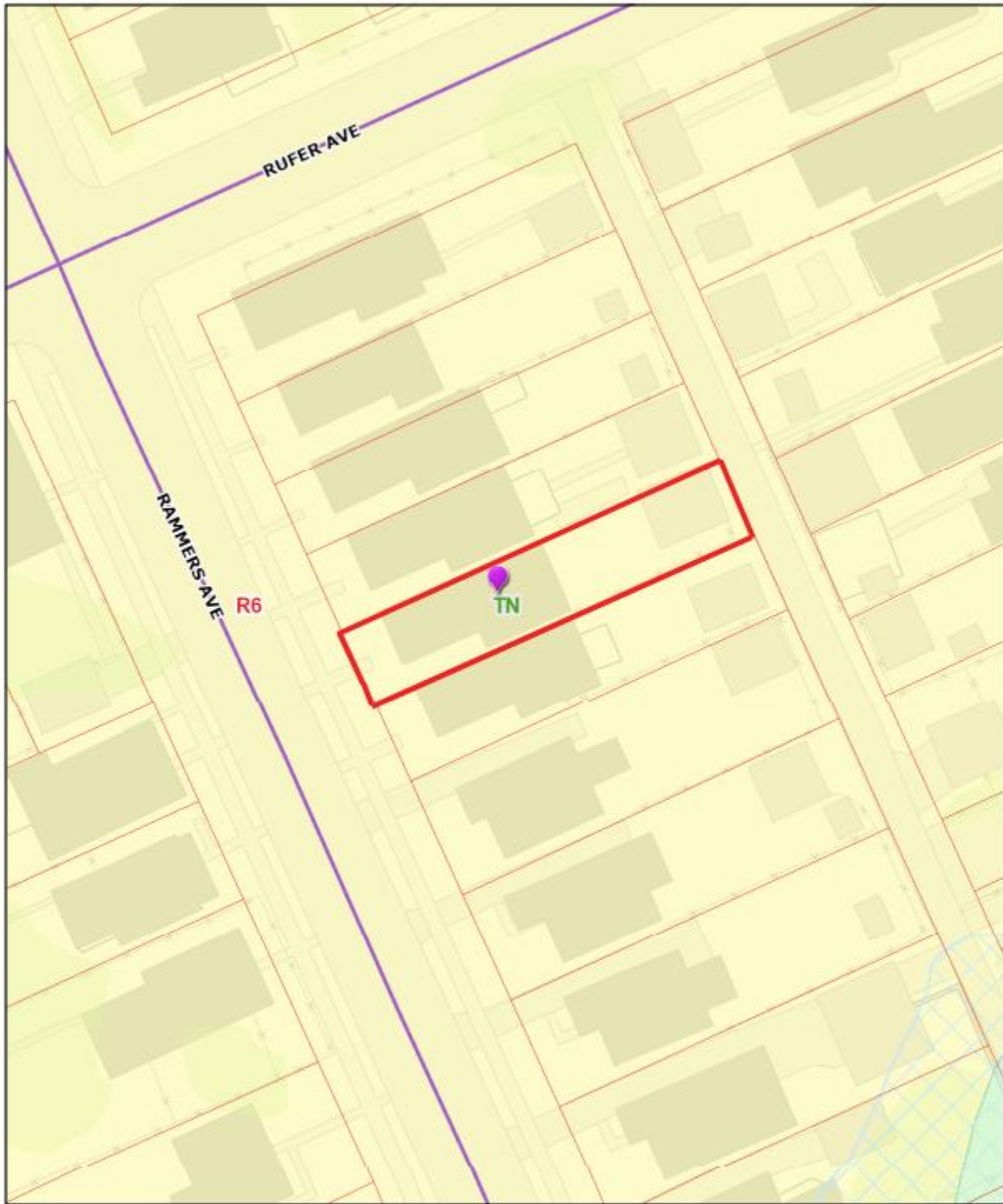
**NOTIFICATION**

Date	Purpose of Notice	Recipients
2/03/2023	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 6
2/08/2023	Hearing before BOZA	Notice posted on property

**ATTACHMENTS**

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

1. **Zoning Map**



Monday, February 6, 2023 | 2:03:10 PM

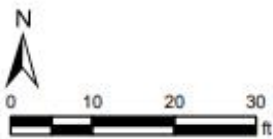


LOJIC © 2023

This map is not a legal document and should only be used for general reference and identification



2. Aerial Photograph



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3. Site Plan

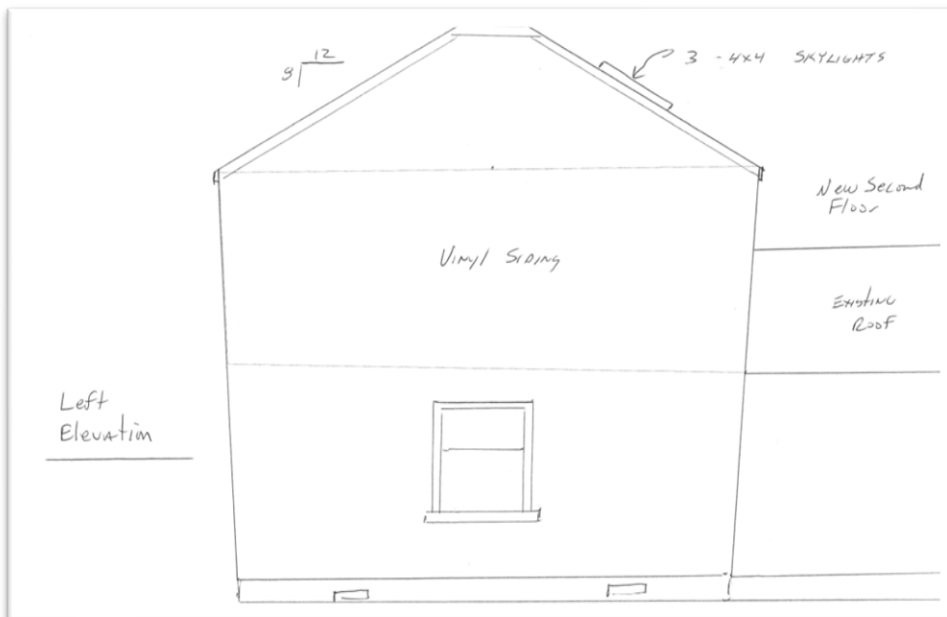
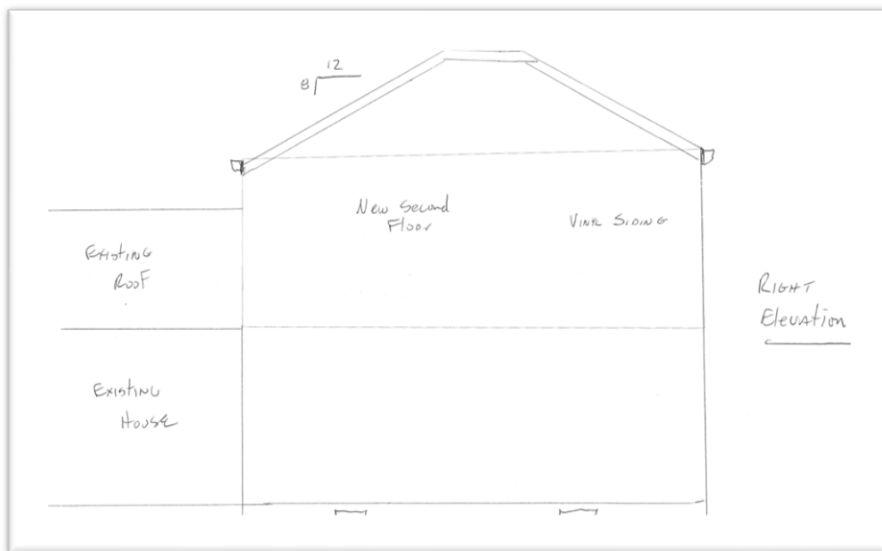
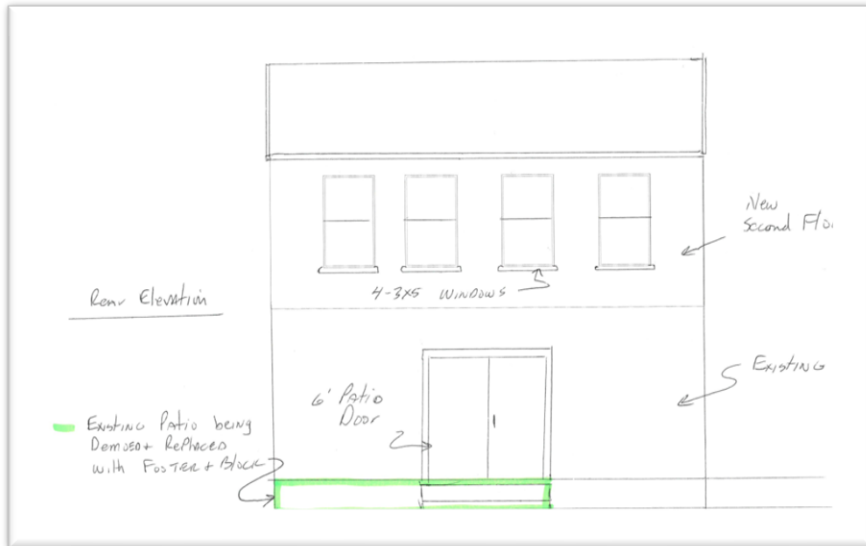


- Variance #1: 5.2.2 to encroach in 3ft side yard setback.
- Variance #2: 5.1.12 infill variance to allow 2nd story addition to exceed Max height.

• Property Owner: Andrew Max Balliet  
 • Address: 1209 Rammers Ave.  
 • Zoning: R6 - Multi-family  
 • Form District: Traditional Neighborhood  
 • Existing SQ FT: 828 SF  
 • Proposed SQ FT: 1500.6 SF (New=672.6)

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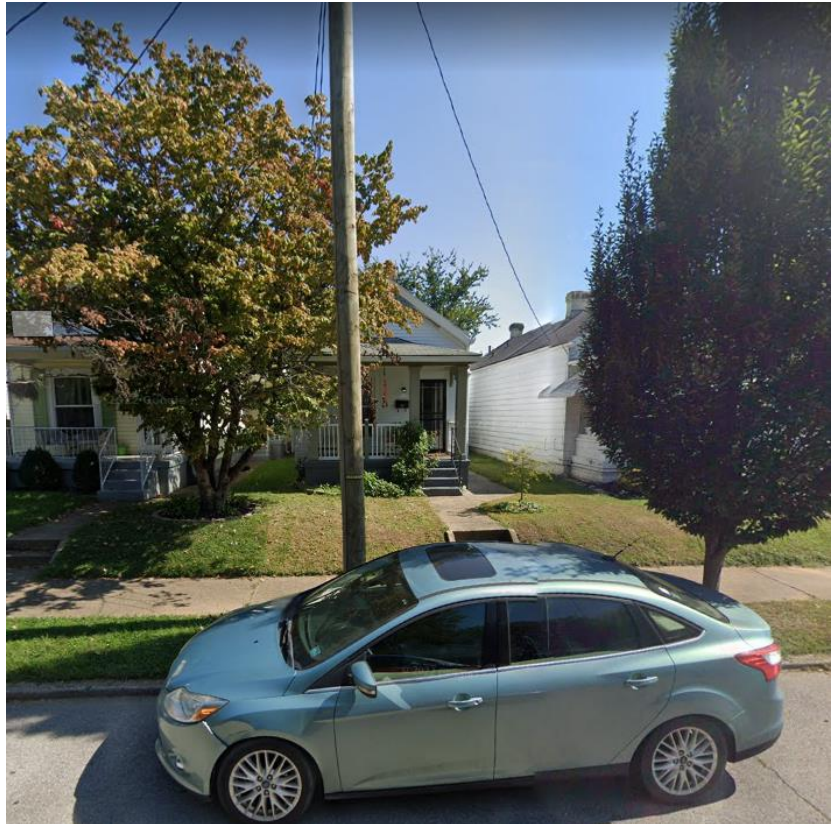
4. **Renderings**





## 5. Site Photos

### Front of Property:



### Rear of Property:

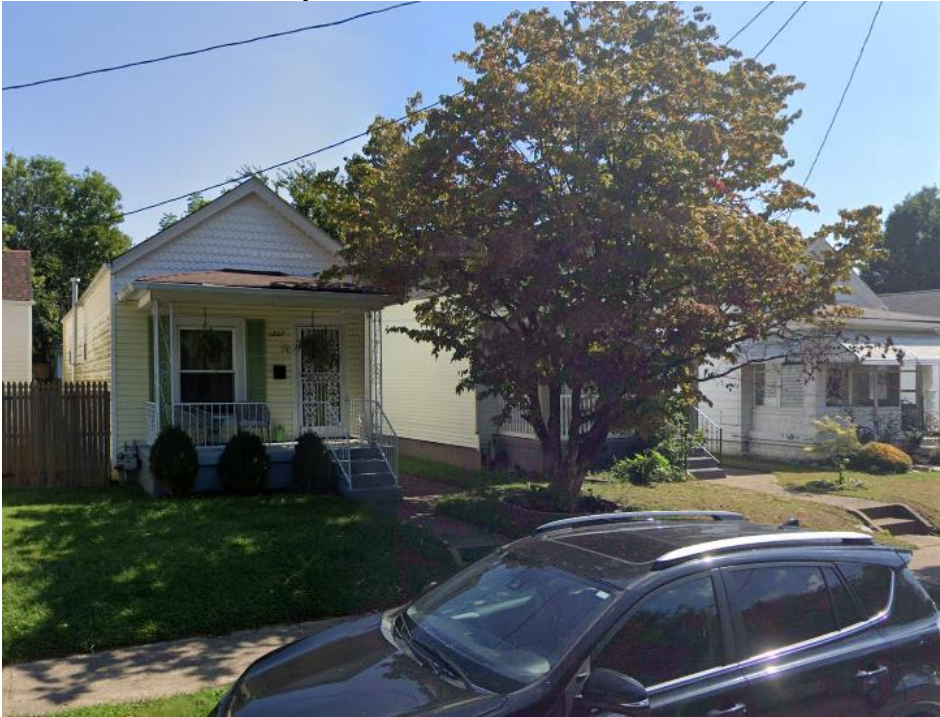




House to the right of subject site:



House to the left of subject site:



Across the street:

