

**Board of Zoning Adjustment  
Staff Report**  
August 24, 2015



<b>Case No:</b>	15Variance1035
<b>Project Name:</b>	New House Addition
<b>Location:</b>	1129 Goss Avenue
<b>Owner(s):</b>	Kansas Andrade & Zach Driscoll
<b>Applicant:</b>	Kansas Andrade & Zach Driscoll
<b>Representative:</b>	Tim McIntyre
<b>Project Area/Size:</b>	0.0908 acres
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	10 – Steve Magre
<b>Case Manager:</b>	Sherie' Long, Landscape Architect

**REQUEST**

Variance from the Land Development Code, Chapter 5, Section 5.4.1.C.6.b, to allow a proposed house addition to encroach into the required side yard.

**Variance**

<b>Location</b>	<b>Requirement</b>	<b>Request</b>	<b>Variance</b>
<b>Side Yard (northwest)</b>	3 feet	0.77 feet	2.23 feet

**CASE SUMMARY/BACKGROUND/SITE CONTEXT**

The applicant was granted a variance, July 20, 2015, to allow a proposed house addition to be 0 feet from the southeast property line with two conditions. A condition the applicant submit a survey to staff from a licensed surveyor to verify of the location of the new foundation for the new rear addition; and a condition the applicant provide a copy of the required building permit to staff.

The survey was submitted to staff on July 31, 2015. After staff reviewed the survey, it was determined a second variance allowing the new structure to encroach into the northwest side yard would be necessary to allow the construction of the new addition to continue.

As described in the previous staff report, the applicant had begun construction of a new two story addition on an existing one story house located on the east side of Goss Avenue in the Germantown Neighborhood. A Stop Work Order was issued in May for work being completed without a building permit. The applicant had removed an existing one story addition and deck from the rear of the house to construct a new larger two story addition. The applicant stated in the previous application the new addition is not any closer to the property line than the addition which was removed. Since the existing addition was removed, the new addition is considered new construction therefore must meet the current side yard setback requirement of 3 feet for both the northwest and southeast.

**LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE**

The site is zoned R-5 in the Traditional Neighborhood Form District (TN), surrounded by single family residential property zoned R-5 in the Traditional Neighborhood Form District (TN).

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing/ Proposed</b>	Single family residential	R-5	TN
<b>Surrounding Properties</b>			
<b>North</b>	Single family residential	R-5	TN
<b>East</b>	Single family residential	R-5	TN
<b>South</b>	Single family residential	R-5	TN
<b>West</b>	Single family residential	R-5	TN

**PREVIOUS CASES ON SITE**

- 15PM7132:** Inspection completed concerning compliant about work being done without a building permit. April 28, 2015
- 15PR1245:** Stop Work Order issued May 4, 2015

**INTERESTED PARTY COMMENTS**

No inquiries.

**APPLICABLE PLANS AND POLICIES**

Land Development Code

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The variance will not adversely affect the public health, safety or welfare because the new addition will be the same distance from the adjacent property as the existing house. However, the sunlight will be blocked from the adjacent property by the two story addition which was not the case previously with the one story structure and deck. Also the overhang and gutter will be encroaching into the adjacent property by 0.73 feet.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the general character of the general vicinity because the new two story addition is located in the general location of the addition which was removed. Plus the location of the new addition is similar to other houses in the vicinity. The construction materials are also similar to other houses in the vicinity.

- (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 new addition is in the rear of the property. However, the encroachment of the overhang and gutter should be addressed with either the adjacent property owner providing an easement or the overhang being eliminated.

- 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 since the new addition will be located similar to the location of the addition which was removed. There are other houses in the vicinity which are located close to the side property line with little or no setback being provided.

**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 because this lot is very narrow. Plus other houses in this vicinity also are located very close to the property line with little or no setback provided.

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 cause an unnecessary hardship on the applicant because the proposed addition foundation would need to be removed and rebuilt. However, this hardship is a direct result of the actions of the applicant.

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 the result of actions of the applicant subsequent to the adoption of the zoning regulation; because the applicant did not obtain a survey, a building permit, nor request a variance prior to beginning construction.

**TECHNICAL REVIEW**

The encroachment of the overhang and gutter into the adjacent property will need to be addressed.

**STAFF CONCLUSIONS**

Board of Zoning Adjustment must determine if the proposal meets the standard for a variance established in the Land Development Code based on the testimony and evidence provided.

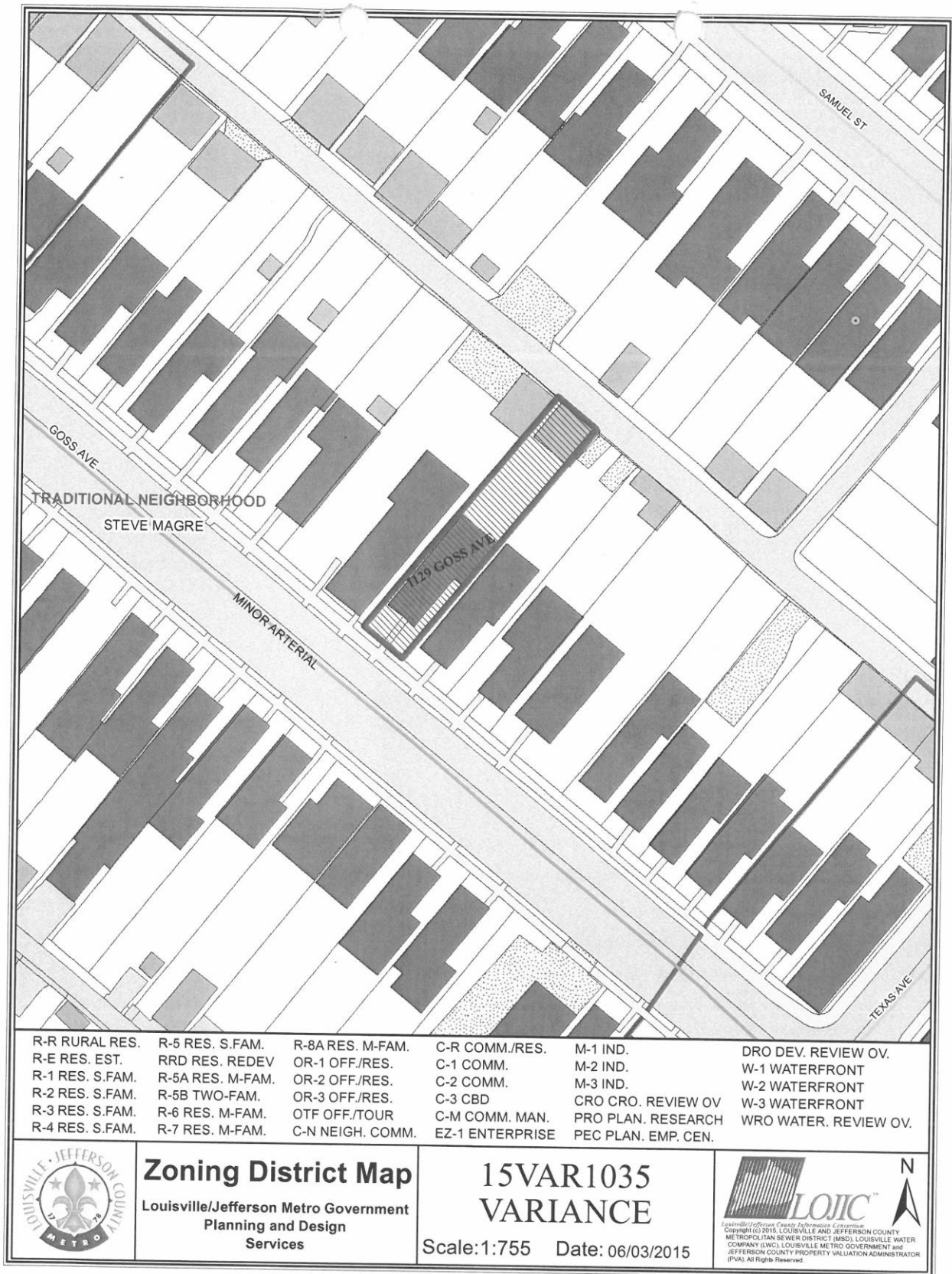
**NOTIFICATION**

Date	Purpose of Notice	Recipients
07/04/2015	BOZA Hearing	Neighborhood notification recipients
07/10/2015	BOZA Hearing	1 <sup>st</sup> tier adjoining property owners
07/18/2015	Sign Posting	Subject property

## **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Site Photographs provided by the applicant
4. Applicant's Letter
5. Survey
6. Elevation and Floor Plan
7. Applicant's Variance Justification Statement
8. Site Photographs

**Attachment 1: Zoning Map**



Attachment 2: Aerial Photograph



R-R RURAL RES.	R-5 RES. S.FAM.	R-8A RES. M-FAM.	C-R COMM./RES.	M-1 IND.	DRO DEV. REVIEW OV.
R-E RES. EST.	RRD RES. REDEV	OR-1 OFF./RES.	C-1 COMM.	M-2 IND.	W-1 WATERFRONT
R-1 RES. S.FAM.	R-5A RES. M-FAM.	OR-2 OFF./RES.	C-2 COMM.	M-3 IND.	W-2 WATERFRONT
R-2 RES. S.FAM.	R-5B TWO-FAM.	OR-3 OFF./RES.	C-3 CBD	CRO CRO. REVIEW OV	W-3 WATERFRONT
R-3 RES. S.FAM.	R-6 RES. M-FAM.	OTF OFF./TOUR	C-M COMM. MAN.	PRO PLAN. RESEARCH	WRO WATER. REVIEW OV.
R-4 RES. S.FAM.	R-7 RES. M-FAM.	C-N NEIGH. COMM.	EZ-1 ENTERPRISE	PEC PLAN. EMP. CEN.	

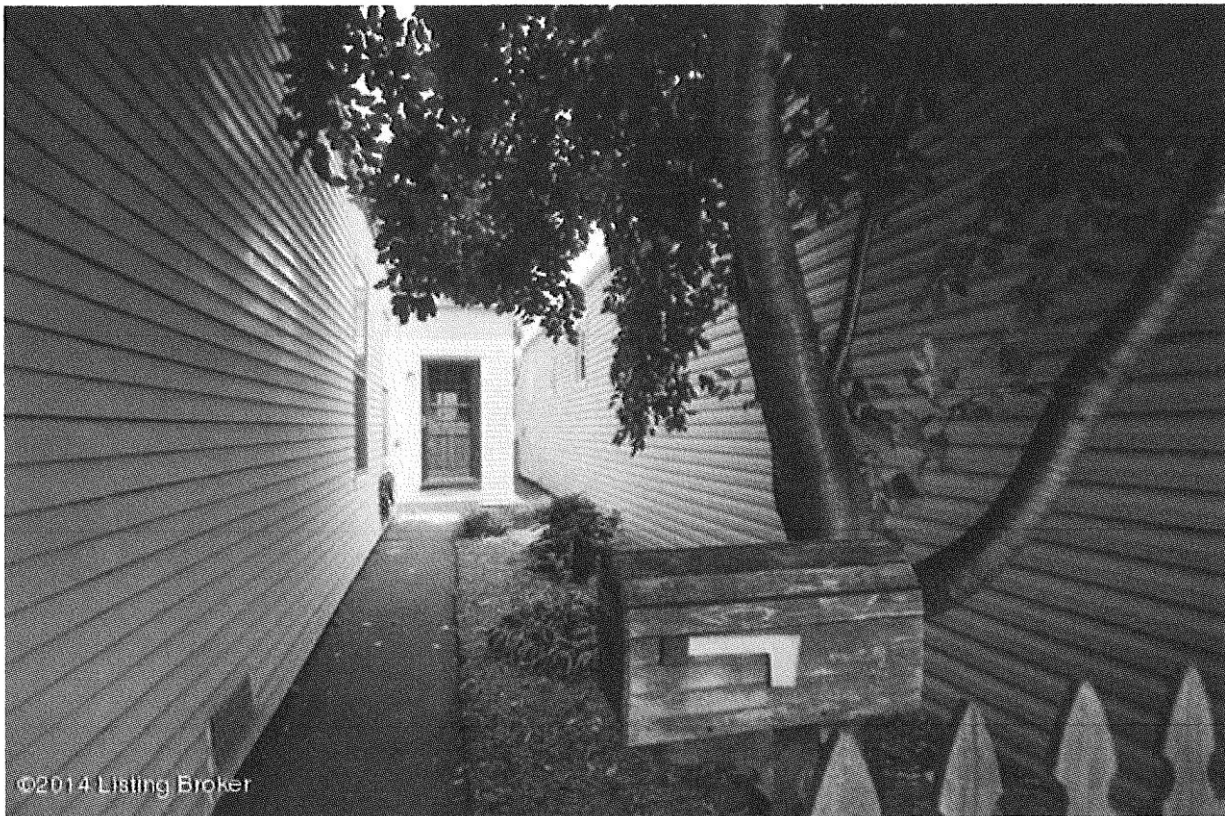
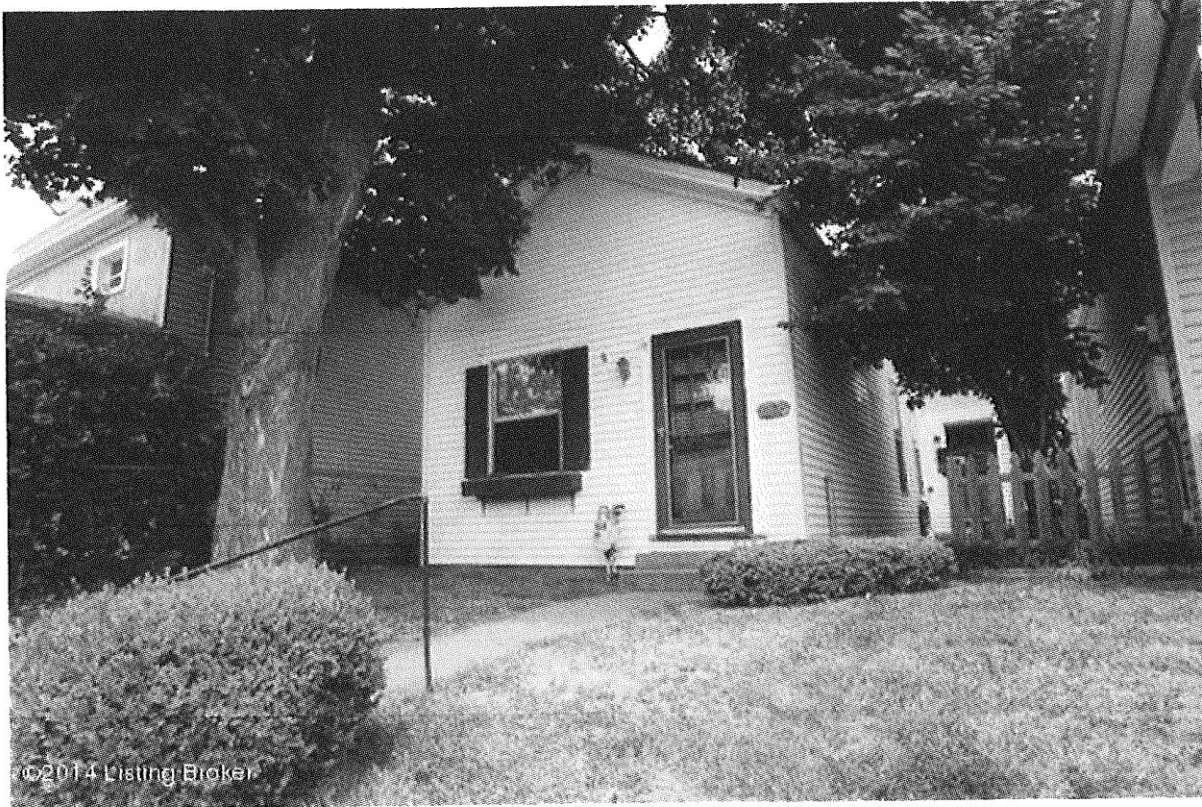


**Zoning District Map**  
 Louisville/Jefferson Metro Government  
 Planning and Design  
 Services

**15VAR1035  
 VARIANCE**  
 Scale: 1:305 Date: 06/03/2015



**Attachment 3: Site Photographs provided by the applicant**







**Attachment 4: Applicant's Letter**

Our planned renovation will extend the back of the house out into our backyard 3 feet. An expansion of 3ft in this direction will not put us in danger of being close to 3 feet away from the property line. And we will not be extending closer to the property lines on the sides of our house. However, since it is new construction it must conform to new codes introduced in the 2000s, which states that new construction must be no closer than 3 feet to the property line.

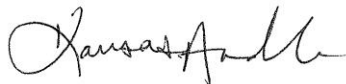
As I'm sure you are aware, most of the houses in Germantown (and in the older sections of Louisville generally) were built quite a lot closer to each other than that. Our house was first constructed about 7 inches from one of our property lines on the side of the home. We have been told by someone in the Jefferson County Office of Codes and Variances that because we will be tearing down part of the home to renovate it will legally be considered "new construction". Therefore, in order to renovate our home we must acquire a variance from the current code.

Thanks so much for your consideration,

Zach Driscoll



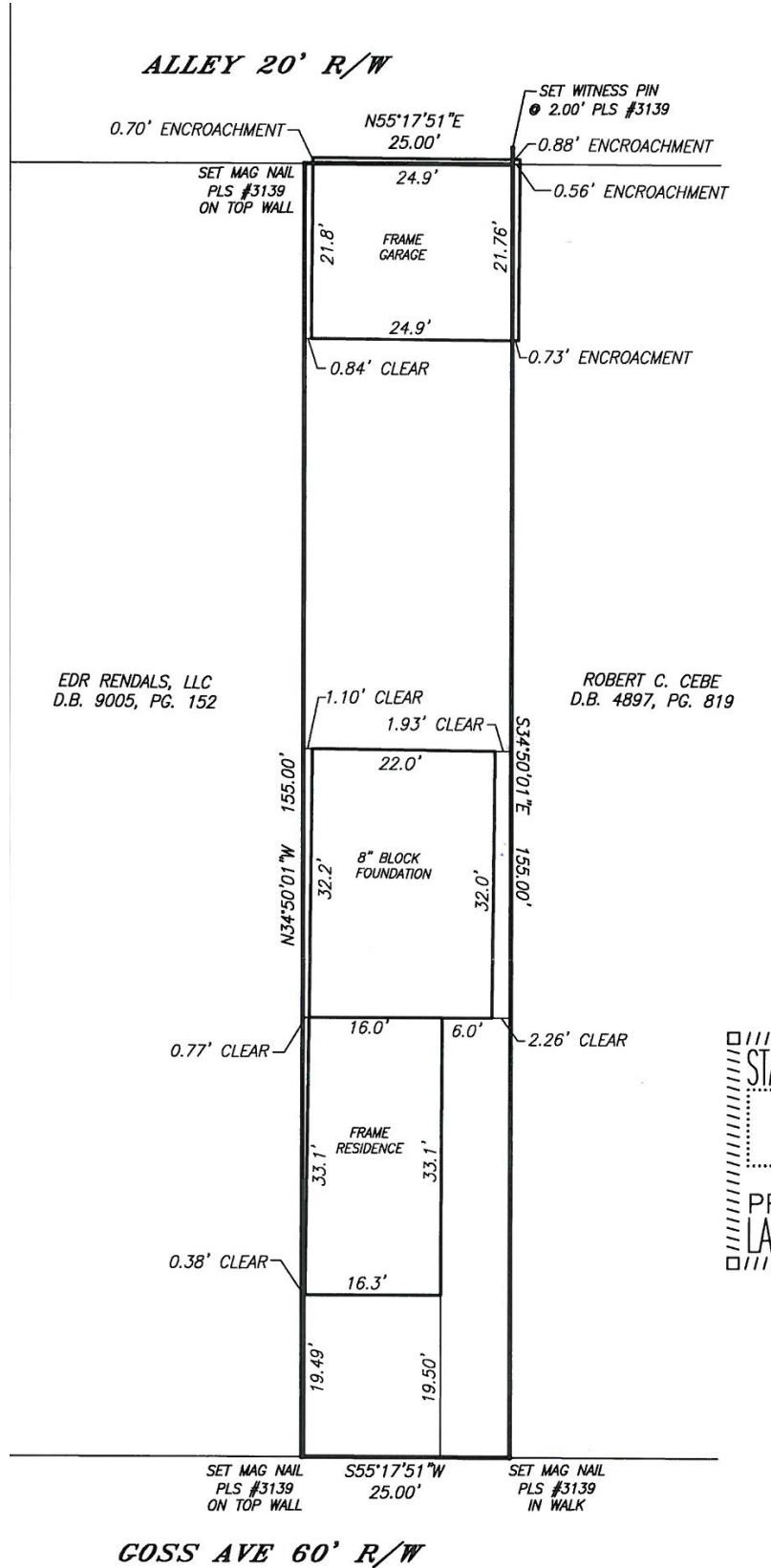
Kansas Andrade



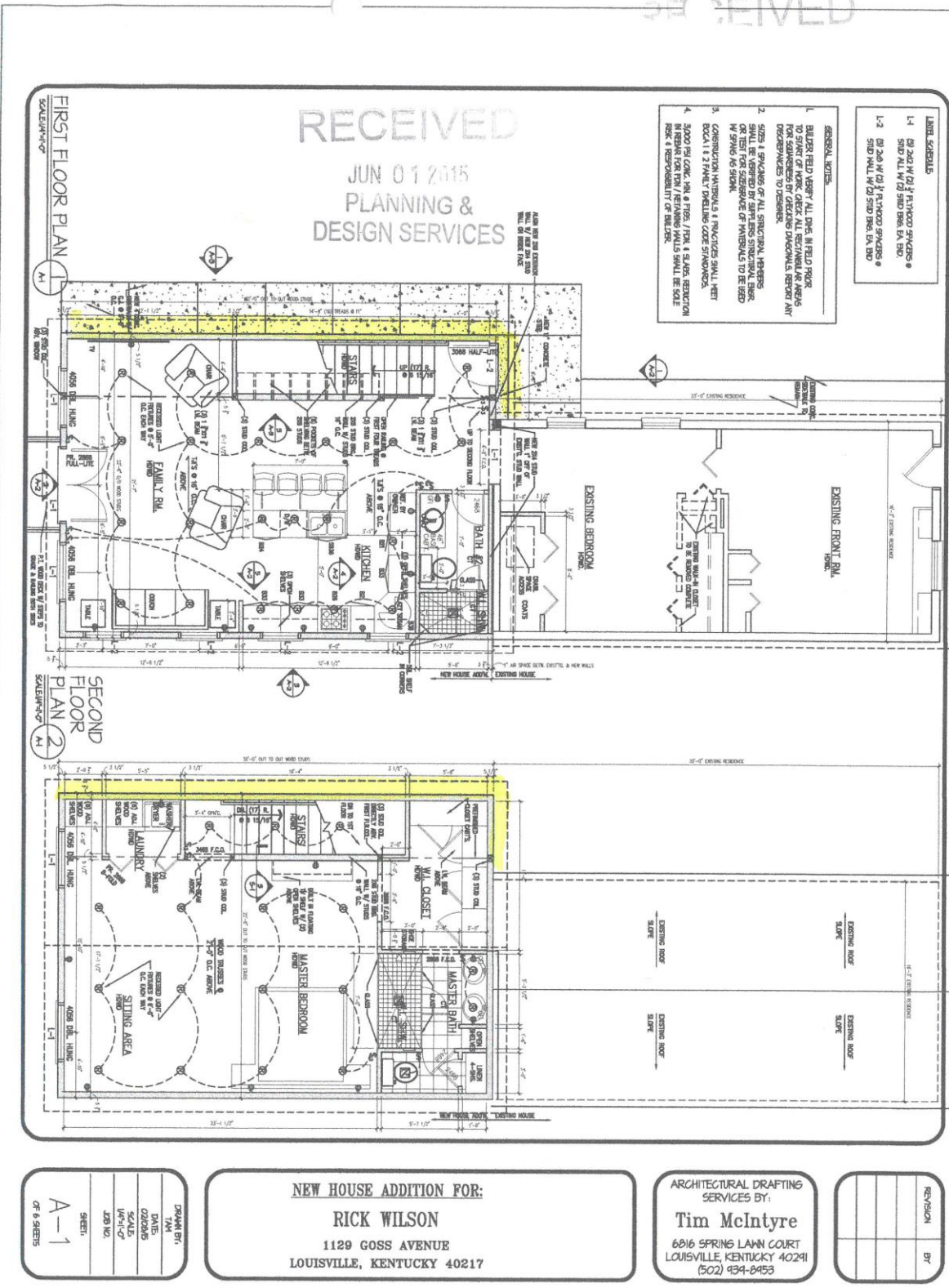
RECEIVED  
JUN 01 2015  
PLANNING &  
DESIGN SERVICES

15VARIANCE035

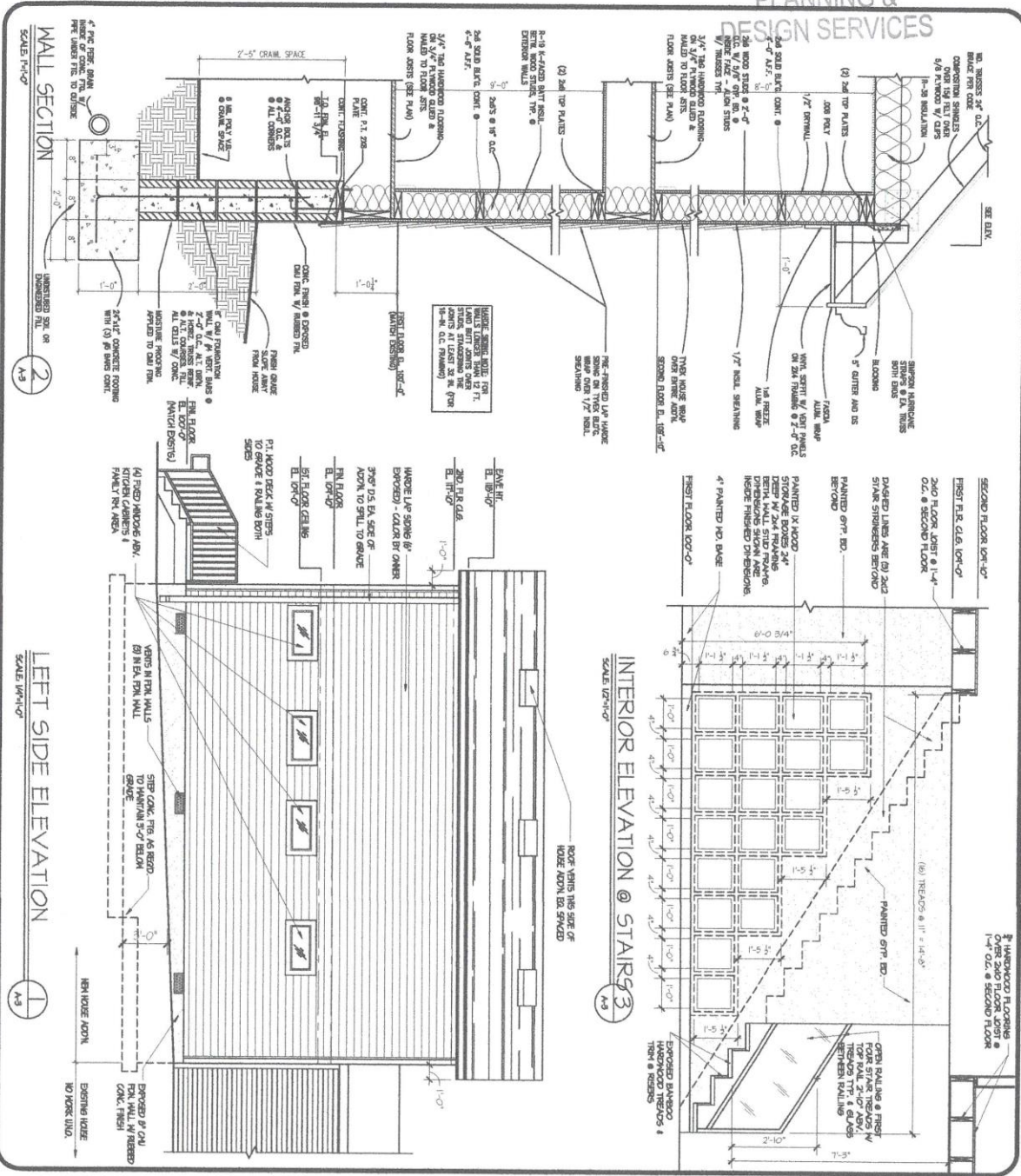
Attachment 5: Survey



Attachment 6: Elevations and Floor Plan







DRAWN BY: T.M.  
 DATE: 02/20/15  
 SCALES: 1/4"=1'-0"  
 JOB NO.:  
 SHEET: A-3  
 OF 6 SHEETS

**NEW HOUSE ADDITION FOR:**  
**RICK WILSON**  
 1129 GOSS AVENUE  
 LOUISVILLE, KENTUCKY 40217

ARCHITECTURAL DRAFTING  
 SERVICES BY:  
**Tim McIntyre**  
 6816 SPRING LAWN COURT  
 LOUISVILLE, KENTUCKY 40211  
 (502) 434-8453

REVISION	BY

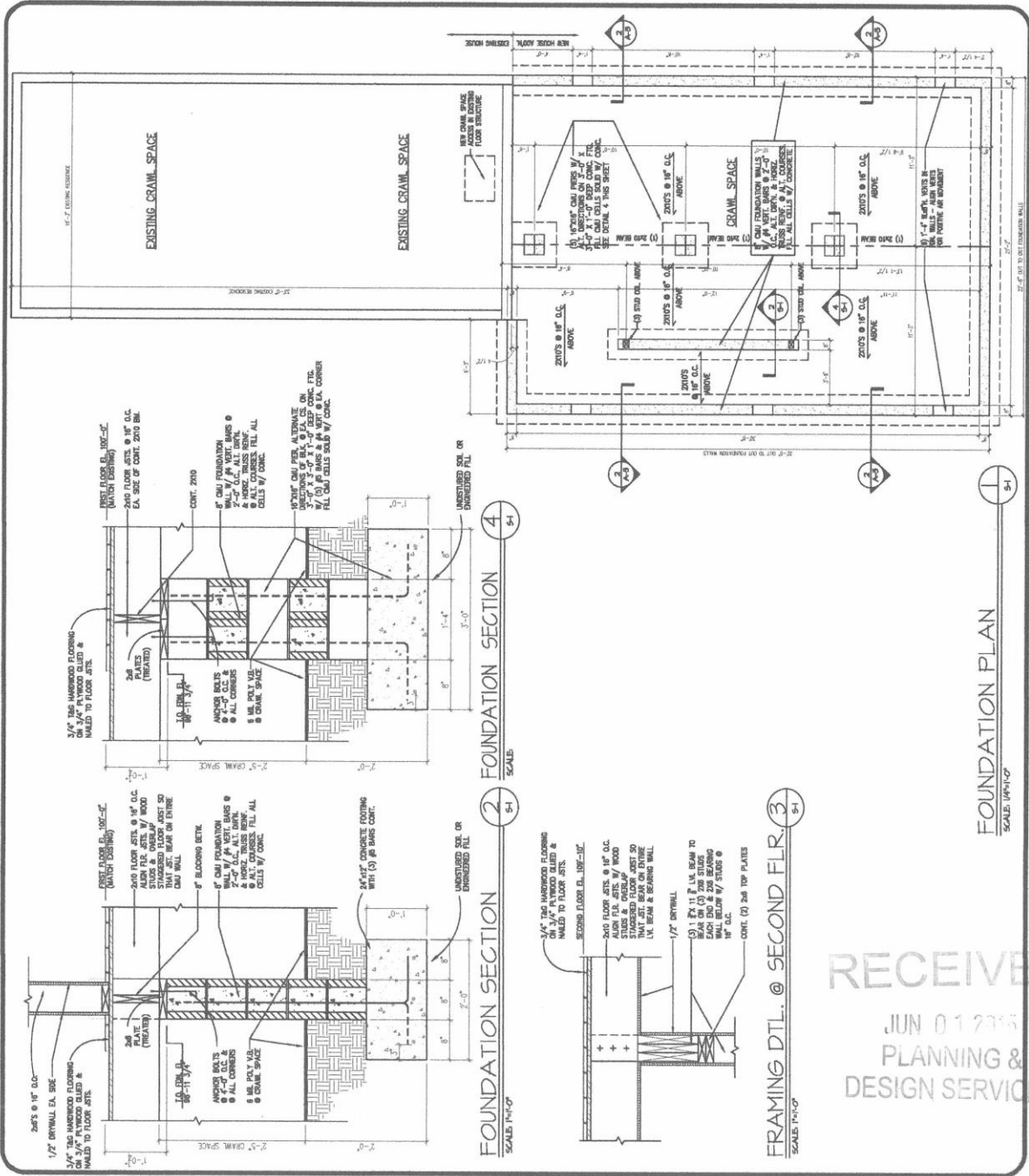
15VARIANCE1035

REVISION	BY

ARCHITECTURAL DRAWINGS  
SERVICES BY:  
**Tim McIntyre**  
6616 SPRING LAWN COURT  
LOUISVILLE, KENTUCKY 40291  
(502) 494-8453

NEW HOUSE ADDITION FOR:  
**RICK WILSON**  
1129 GOSS AVENUE  
LOUISVILLE, KENTUCKY 40217

DRAWN BY:  
TMM  
DATE:  
CADD:  
CHECKED:  
JOB NO.  
SHEET:  
**S-1**  
OF 6 SHEETS



RECEIVED  
JUN 01 2015  
PLANNING &  
DESIGN SERVICES

SWANWELL035

Attachment 7: Applicant's Justification Statement

RECEIVED

JUN 01 2015

PLANNING &

DESIGN SERVICES

**Variance Justification:**

In order to justify approval of any variance, the Board of Zoning Adjustment considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

1. Explain how the variance will not adversely affect the public health, safety or welfare.

The variance will not be extending the house any closer to the property line in question. Our planned renovation will be the same distance (7") from the property line as it currently is.

2. Explain how the variance will not alter the essential character of the general vicinity.

The planned renovation is a camelback, which are common in Germantown, and indeed, on our block.

3. Explain how the variance will not cause a hazard or a nuisance to the public.

The renovation will not be bringing the house closer to the road or to our neighbor with whom we share the property line in question.

4. Explain how the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

We are not attempting to extend the house closer to the property line in question. The house was originally built closer than 3ft to the property line, preceding the introduction of the code which states that buildings may not be closer than 3ft to the property line.

1. Explain how the variance arises from special circumstances, which do not generally apply to land in the general vicinity (please specify/identify).

The house was already closer than 3ft to the property line when we bought it. We are simply renovating and updating on the currently existing plot.

2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship.

Almost all homes in Germantown were built closer than 3ft to the property lines. Strict application of the regulation would essentially end renovation in Germantown and many other areas of the city in which there exists older construction.

3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought?

No. The home was originally built 7" from the property line in question; we will not be moving any closer to that property line.

ESWARANWELLES

**Attachment 8: Site Photographs**



**Front of the Existing House**



**Distance between the two properties**





**New addition at rear of house**



**3'-7" between new addition and adjacent house façade**



Rear Yard





**View of rear addition from rear yard**



**View of rear addition from rear yard**



**Existing garage at rear of property**



**Houses across the street**



Houses across the street



Houses across the street