

**Board of Zoning Adjustment**  
**Staff Report**  
 January 7, 2019



<b>Case No:</b>	18VARIANCE1113
<b>Project Name:</b>	Malone Place Variance
<b>Location:</b>	910 Malone Place
<b>Owner:</b>	Louis Guttman, Anabasis LLC
<b>Applicant:</b>	Kathryn Matheny – Cardinal Surveying
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	19
<b>Case Manager:</b>	Zach Schwager, Planner I

**REQUEST**

- **Variance** from Land Development Code table 5.3.1 to allow a structure to encroach into the required side yard setback

Location	Requirement	Request	Variance
Side Yard	5 ft.	4.23 ft.	0.77 ft.

**CASE SUMMARY/BACKGROUND**

The subject property is lot 115 of the Glen Lakes Section 4 Phase 1 subdivision. It contains a 1-story single-family residence. The existing residence was constructed into the required side yard setback; a variance is required to bring it into compliance with the Land Development Code. A building permit was approved under case BL985507 on June 28, 2016.

**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 table 5.3.1 to allow a structure to encroach into the required 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 TABLE 5.3.1**

- (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 structure is 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 it is an existing structure and similar in design to the other residences 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 an existing structure.

- (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 is an existing structure and slightly encroaches into the side yard setback.

### **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 property is similarly sized as the surrounding lots.

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 requiring them to demolish the existing structure and build a new one to comply with the Land Development Code.

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 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 after construction of the residence.

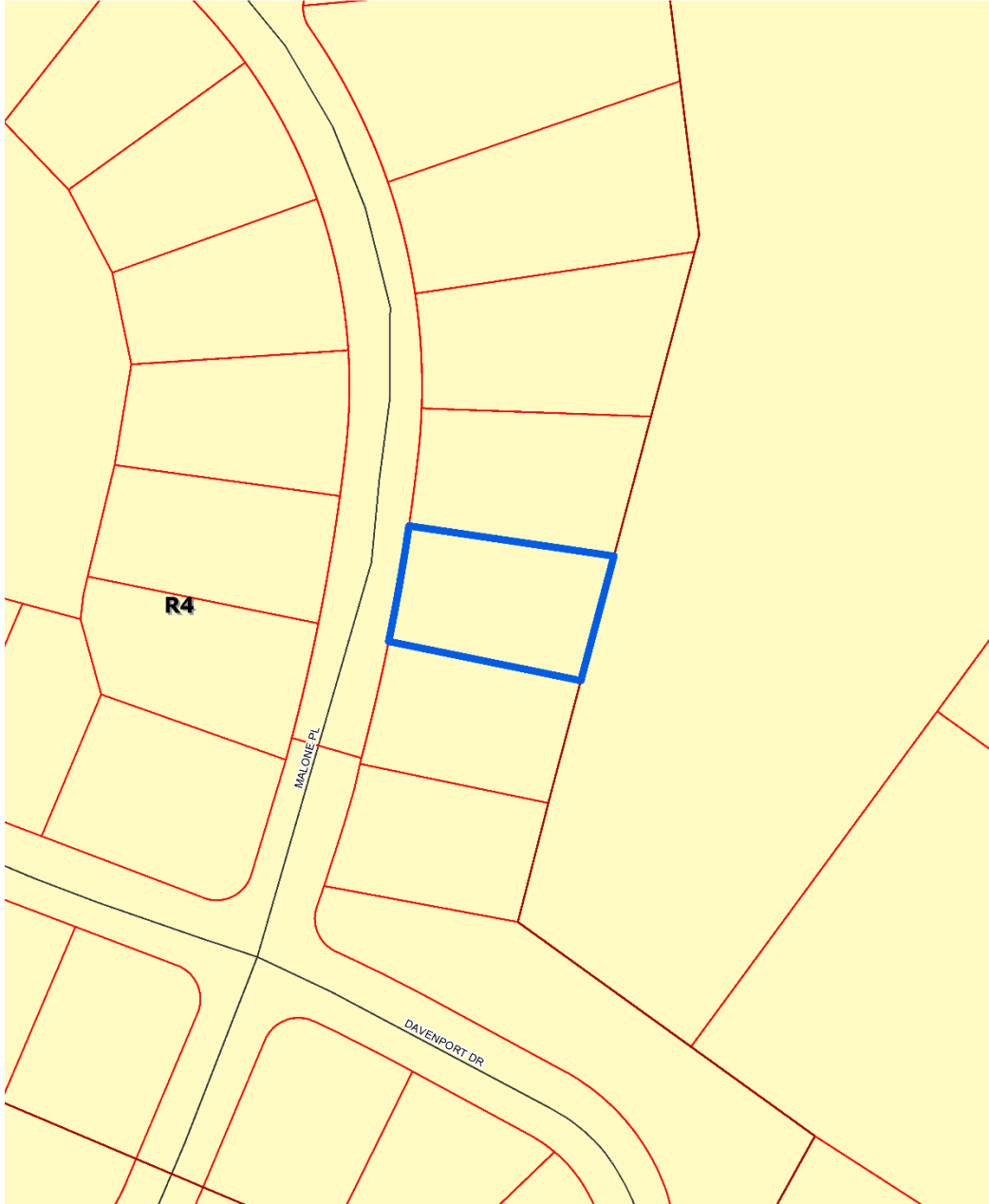
**NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>12/20/2018</b>	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 19
<b>12/21/2018</b>	Hearing before BOZA	Notice posted on property

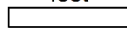
**ATTACHMENTS**

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

1. **Zoning Map**



910 Malone Place  
feet



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Map Created: 12/11/2018

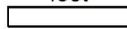


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2. Aerial Photograph



910 Malone Place  
feet



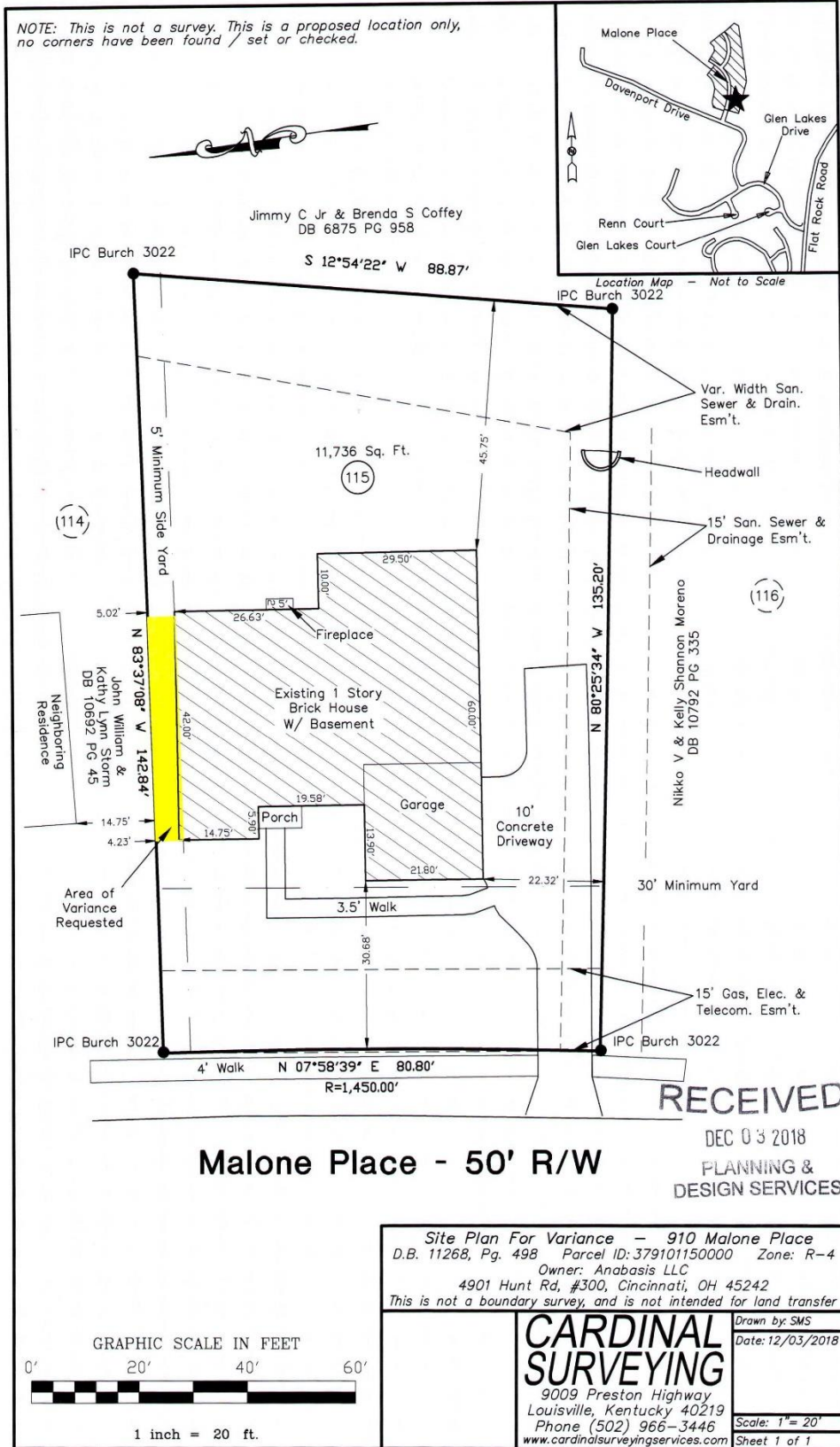
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Map Created: 12/11/2018



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**3. Site Plan**



4. Site Photos



Front of subject property.



Property to the left of subject property.





Property to the right of subject property.



Property across Malone Place.



Variance area.



Notice of public hearing.