

Board of Zoning Adjustment Staff Report

April 17, 2017



Case No:	17VARIANCE1012
Request:	Variance from the required 5' side yard setback
Project Name:	7115 Welchire Falls Drive
Location:	7115 Welchire Falls Drive
Area:	.238 Acres
Owner:	Welch Builders Inc.
Applicant:	Welch Builders Inc.
Representative:	Charles Podgursky
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Dante St. Germain, Planner I

REQUEST

- Variance from Land Development Code table 5.3.1 for a structure to encroach into the required side yard.

Location	Requirement	Request	Variance
Side Yard Setback	5 ft.	2.56 ft.	2.44 ft.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

A new one-story single-family residence with walk-out basement is currently under construction on the subject property. The house will have gutters, with the run-off directed into the front and rear yards. The house was planned to be 6 feet from the south property line, but mid-way through the construction it was discovered that the house had been built closer to the property line. At its point of greatest encroachment, the house is 2.56 feet from the property line. The required side yard setback is 5 feet, for an encroachment of 2.44 feet. The applicant requests a variance from Land Development Code table 5.3.1 for the encroachment. All adjoining property owner signatures have been received by staff.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Single Family Residential	R-4	Neighborhood
Proposed	Single Family Residential	R-4	Neighborhood
Surrounding Properties			
North	Single Family Residential	R-4	Neighborhood
South	Single Family Residential	R-4	Neighborhood
East	Single Family Residential	R-4	Neighborhood
West	Single Family Residential	R-4	Neighborhood

PREVIOUS CASES ON SITE

No previous cases on site.

INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

APPLICABLE PLANS AND POLICIES

Land Development Code

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 encroaching wall will need to meet building code, protecting the health, safety and welfare of the neighboring resident.

- (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 house's design and materials are consistent with the rest of the neighborhood, and the encroachment is under 2 ½ feet.

- (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 south wall of the building must meet building code, which will protect the interests of the neighboring resident.

- (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 encroachment was accidental.

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 not generally apply to land in the general vicinity or the same zone as the parcel is not irregularly shaped, and the topography of the parcel does not constrain the construction in such a way as to require the variance.

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 costly revisions to the house or the demolishing and rebuilding of the house.

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 taken subsequent to the adoption of the zoning regulation from which relief is sought as the encroachment was accidental and took place subsequent the adoption of the zoning regulation.

TECHNICAL REVIEW

- No technical review undertaken.

STAFF CONCLUSIONS

Based upon the information in the staff report, 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 allowing the side yard to be less than 5 feet.

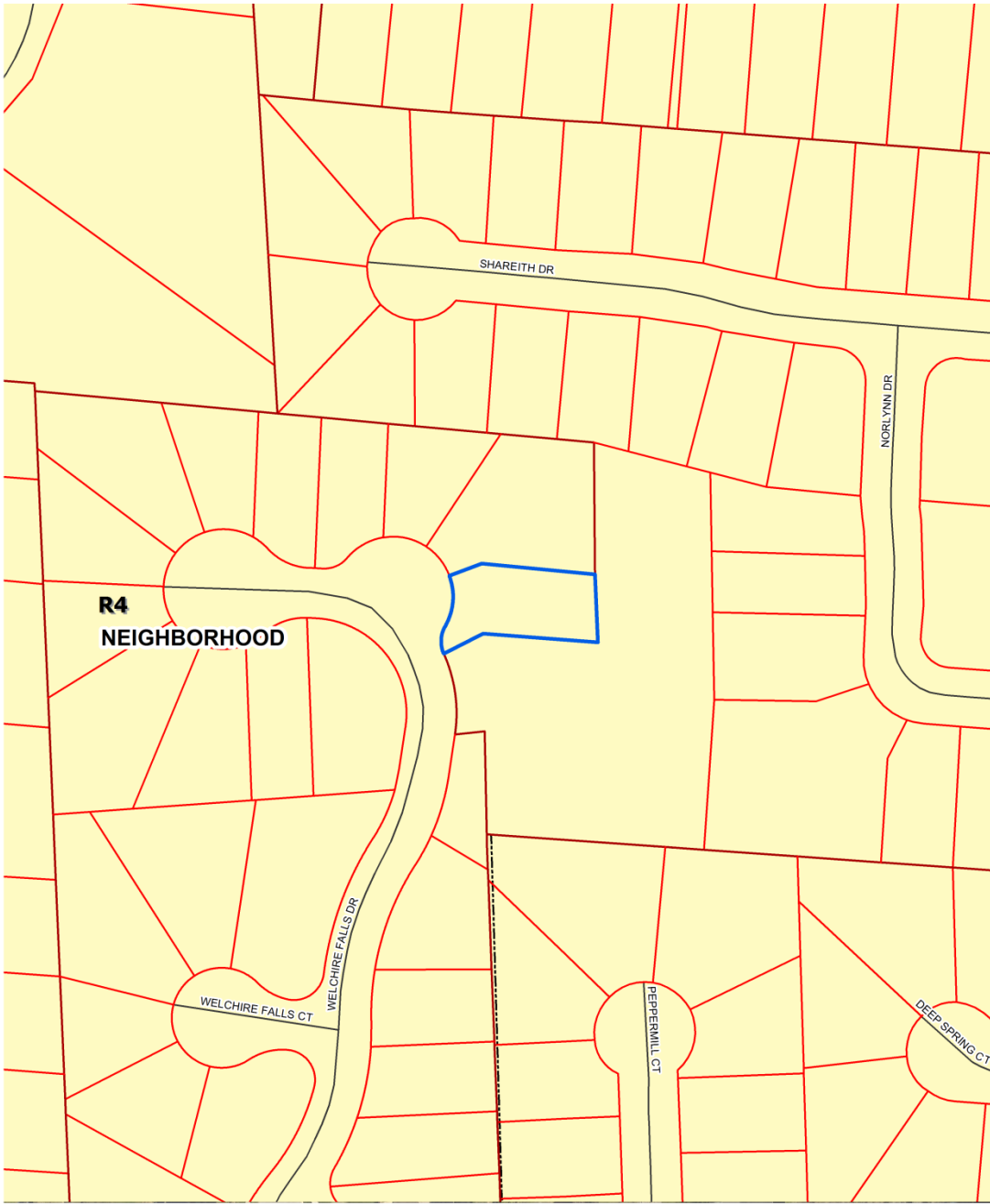
NOTIFICATION

Date	Purpose of Notice	Recipients
03-09-2017	Non-Public Hearing before BOZA	Not required - 1 st tier adjoining property owners Not required - Subscribers of Council District 8 Notification of Development Proposals

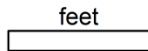
ATTACHMENTS

1. Zoning Map
2. Aerial
3. Site Plan
4. Site Photos Provided by Applicant
5. Building Permit Plan

1. Zoning Map



7115 Welchire Falls Drive



Map Created: 4/10/2017

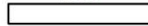


Copyright (c) 2017, LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT (MSD), LOUISVILLE WATER COMPANY (LWC), LOUISVILLE METRO GOVERNMENT and JEFFERSON COUNTY PROPERTY VALUATION ADMINISTRATOR (PVA). All Rights Reserved.

2. Aerial



7115 Welchire Falls Drive
feet



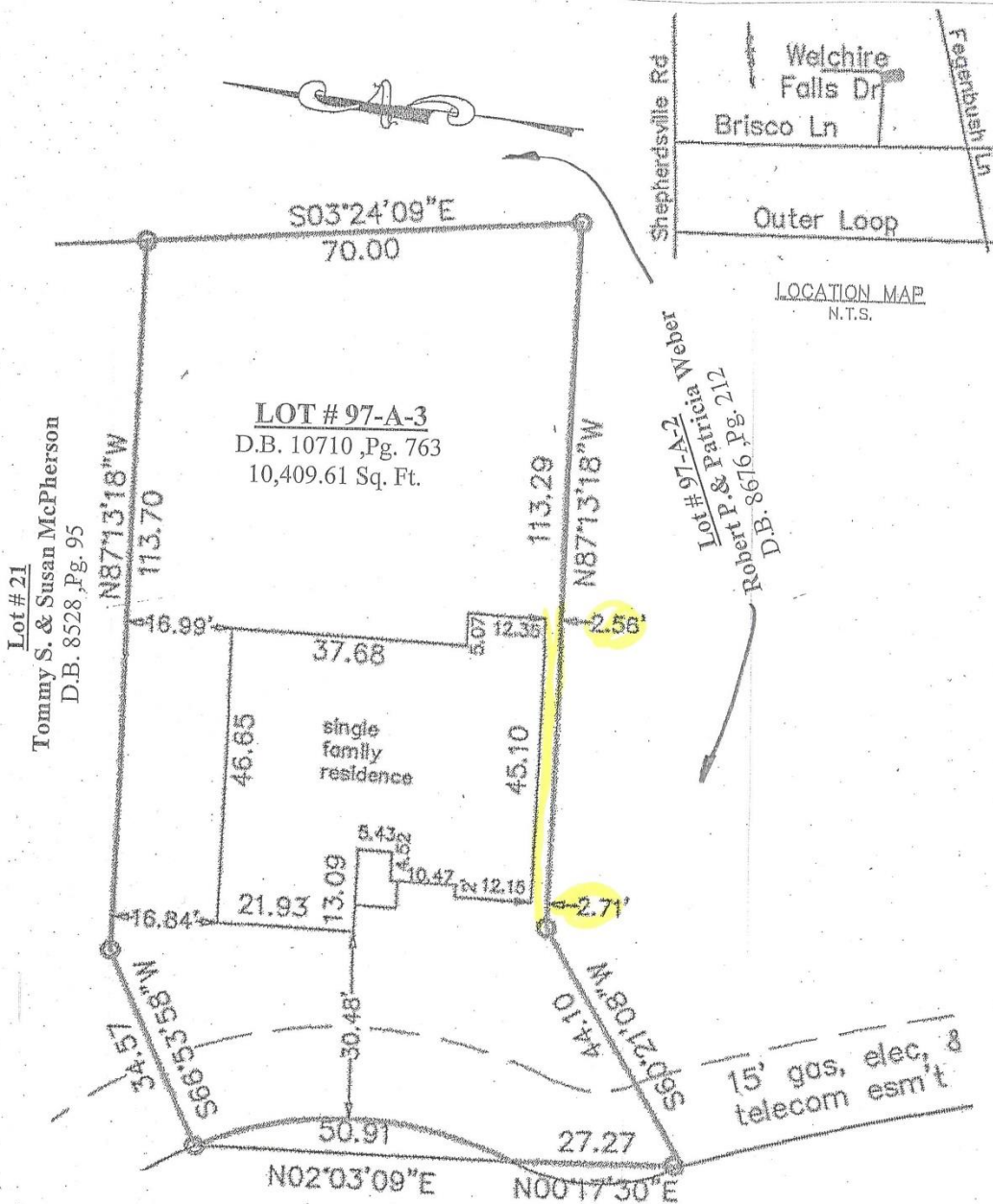
130

Map Created: 4/10/2017



Copyright (c) 2017, LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT (MSD), LOUISVILLE WATER COMPANY (LWC), LOUISVILLE METRO GOVERNMENT and JEFFERSON COUNTY PROPERTY VALUATION ADMINISTRATOR (PVA). All Rights Reserved.

3. Site Plan



7115 Welchire Falls Drive 50' R/W
(P.B. 49, Pg. 50)

SITE PLAN

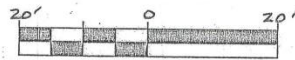
WELCH BUILDERS, INC
7115 Welchire Falls Drive
Lot # 97-A-3 Per Minor Plat #161-04
D.B. 8538, Pg. 336 & D.B. 10710, Pg. 763
Jefferson County KY

Scale: 1" = 20' Date: Feb. 23rd 2017

C. R. P. & ASSOCIATES, INC.
7321 New La Grange Road, Suite 111
Louisville, KY 40222
(502) 423-8747

NOTES:
The basis of survey was performed by MIKE SEELY & ASSOCIATES Feb. 16, 2017

The tract shown on this plat is subject to all easements and right-of-ways and restrictions, visually apparent and of record.



VARIANCE 1010

4. Site Photos Provided by Applicant

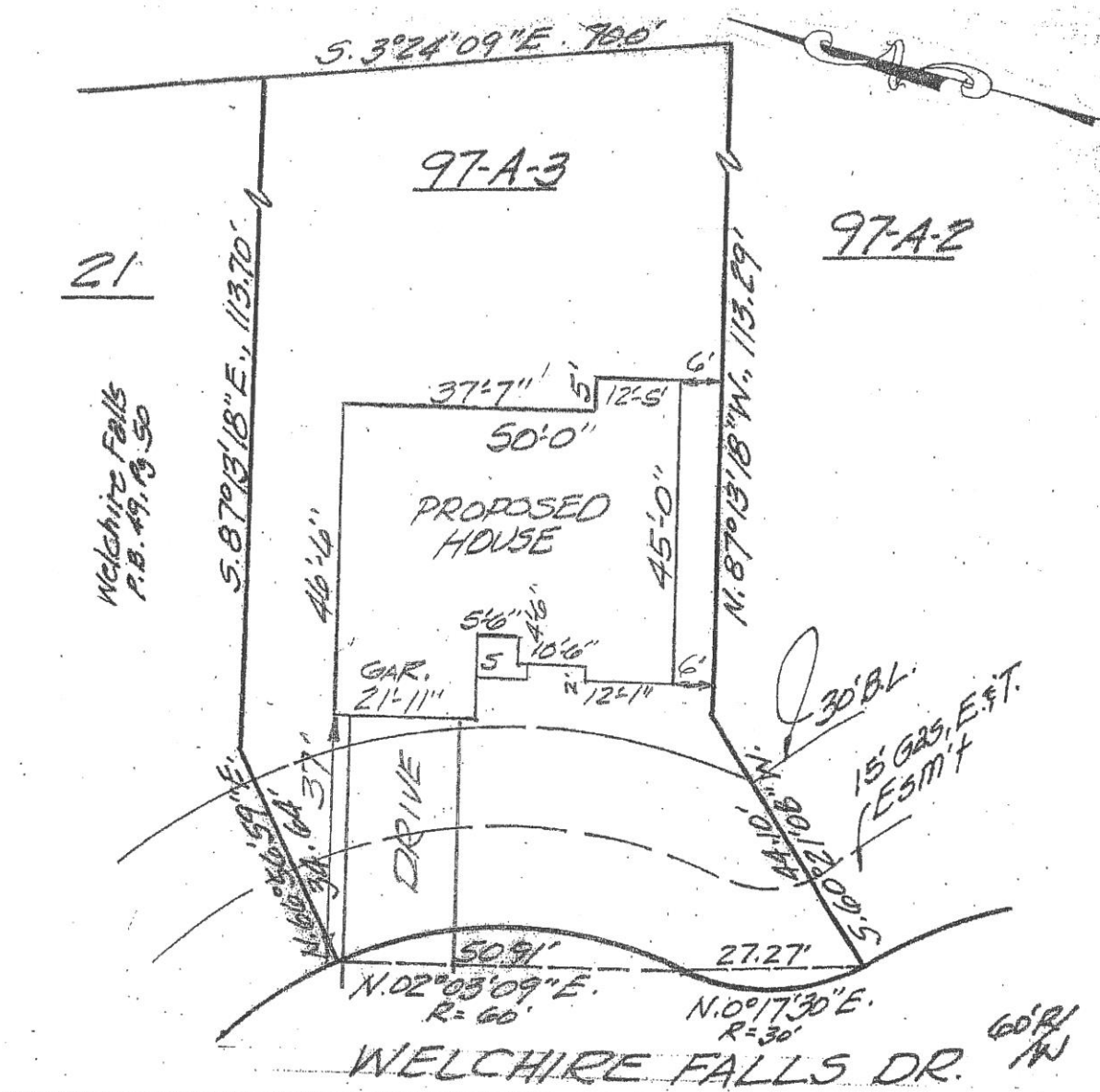


The front of the house under construction.



The side of the house where the encroachment occurs.

5. **Building Permit Plan**



20' 0 20' 40'
Graphic Scale

**PLOT PLAN ONLY
DO NOT SCALE**

MORTGAGE INSPECTION

THIS IS NOT A BOUNDARY SURVEY AND IS NOT A RECORDABLE DOCUMENT.

For: WELCH BUILDERS, INC.
 Location: Lot # 97-A-3 Per Muni P.
#161-01 DB 2533, P. 553
Jeff. Co. 1

Scale: 1" = 20' Date: 7-11-16

C.R.P. & ASSOC., INC.
 7321 New LaGrange Road, Suite 111
 Louisville, KY 40222
 (502) 423-8747 • Fax (502) 429-0602