

# Board of Zoning Adjustment Staff Report

November 7, 2016



<b>Case No:</b>	16VARIANCE1080
<b>Request:</b>	To allow a rear addition to encroach into the side yard setback and reduction in the private yard area.
<b>Project Name:</b>	602 Baxter Avenue
<b>Location:</b>	602 Baxter Avenue
<b>Area:</b>	.07200 acres
<b>Owner:</b>	Libor Zacek
<b>Applicant:</b>	Bruce Rogers – CBR Architects PLLC
<b>Representative:</b>	Bruce Rogers – CBR Architects PLLC
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	4 – David Tandy
<b>Case Manager:</b>	Ross Allen, Planner I

## REQUEST

- **Variance #1:** from the Land Development Code section 5.2.2.C, table 5.2.2 to allow an secondary story addition onto the front of the shotgun house and the addition of a rear deck onto the second story rear of the camelback portion of the shotgun house to encroach by approximately 2 feet 9 inches into the minimum side yard setback for a variance of 2 feet 3 inches, as a result of the C-1 zoned parcel be adjacent to a single family residential use. **(This variance was negated as a result of the applicant stating that they were willing to meet the 5 foot setback, as determined at the Nov. 21, 2016 BOZA Hearing).**

Location	Requirement	Request	Variance
Minimum Side Yard Setback	5 feet	2 feet 9 inches	2 feet 3 inches

- **Variance #2:** from the Land Development Code section 5.4.1.D.3 to allow the proposed addition to the rear of the camelback shotgun house and cantilever deck (second floor) to reduce the private yard area by approximately 629.19 sf.

Location	Requirement	Request	Variance
Private Yard Area	629.19 sf.	0 sf.	629.19 sf.

## CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to construct a 618 sf. second story addition onto the front of an existing shotgun house. The applicant will also construct a two story addition onto the rear camelback portion of the shotgun house; the first floor will be approximately 522 sf., the second floor will be approximately 522 sf. and a roof deck on the second story with an approximate square footage of 522. The applicant is maintaining the current setback of the existing principal structure and will maintain that line with the additions onto the principal structure. The existing principal structure and additions will require a variance from the side yard on the southern property line, abutting a single family residential structure.

Additionally, the proposed rear addition would require a reduction in the private yard area by 20%. A previous addition, approximately 7.4 feet length by 11.2 feet wide, was added to the rear of the principal structure (date unknown) reducing the private yard area to approximately 550 sf. The private yard area prior to the proposed addition was already below the required 20% of the lot area, at approximately 550 sf., 629.19 sf. would meet the 20% for the lot area on a lot with less than 6,000 sf. The proposed addition would require a reduction to the private yard area to 0 sf.

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

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Commercial	C-1	Traditional Neighborhood
<b>Proposed</b>	Commercial	C-1	Traditional Neighborhood
<b>Surrounding Properties</b>			
<b>North</b>	Residential Single Family	C-1	Traditional Neighborhood
<b>South</b>	Residential Single Family	C-1	Traditional Neighborhood
<b>East</b>	Residential Multi-Family	R-6	Traditional Neighborhood
<b>West</b>	Residential Multi-Family	R-6	Traditional Neighborhood

**PREVIOUS CASES ON SITE**

None

**INTERESTED PARTY COMMENTS**

No comments were received from concerned citizens.

**APPLICABLE PLANS AND POLICIES**

Land Development Code (Oct. 2016)

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #1: to allow the proposed rear addition to the principal structure to encroach into the side yard setback (adjacent to a single family residential) by approximately 2 feet 9 inches.**

- (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 since many of the existing residential and commercially zoned structures have a less than 5 foot setback from the property lines. The house is a camelback shotgun the rear of the structure encroachment varies from 2.5 feet to 2.75 feet.

- (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 since many of the residential and commercial properties encroach into the side yard setbacks, most notably along the southern property lines.

- (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 residential and commercial properties in the same block have side yard setbacks less than the required 5 feet from

the property line. The proposed rear addition will be confined within the property boundary and have a fire rated wall of a one hour burn time.

- (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 C-1 zoning district allows for multi-family dwellings and the proposed expansion of the existing principal structure is within the applicable floor area ratio of 1.0 (calculated to be .95).

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 not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone since many of the homes in the vicinity (same block) have setbacks similar to the subject site. Furthermore, the subject site was built in 1900 which predates any zoning regulations and the proposed rear addition would be flush with the existing principal structure.

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 the zoning type (C-1) allows for multi-family dwellings.

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 since the applicant has not constructed any portion of the addition to date without first obtaining the variances.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #2: to allow the proposed rear addition to reduce the private yard area (required 629.19 sf. = 20% of the lot) to zero square feet.**

- (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 since the lot has no accessory structure and has a parking pad to the rear which is excluded from the private yard area calculation which requires 20% for residential lots (per the size of the total lot area less than 6,000 sf.) in the Traditional Neighborhood Form District. The addition poses no threat to the public health, safety, or welfare as a result of the applicant constructing with a one hour fire rated exterior wall.

- (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 since the property is zoned C-1 and the use is a multi-family residential with three other parcels in the same block utilizing the entirety of their parcels.

- (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 since The addition will have a one hour fire rated exterior wall.

- (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 applicant has proposed an addition, that by the LDC is permitted, on a C-1 zoned parcel but used as a residential use requires that a private yard area be present since the parcel resides in a Traditional Neighborhood Form District and will be used as a multi-family residential unit.

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 not arise from special circumstances which generally apply to land in the general vicinity or the same zone because three other parcels residing in the same block are using the entirety of their lots, the applicant if allowed to reduce the private yard area to zero sf. would be similar to all but one parcel which has a private yard area to the rear of the principal structure.

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 the requirement of a private yard area is intended for residential uses within a Traditional Neighborhood Form District however, many parcels in the same block have none if any private yard area since the zoning types are C-1 and many are commercial/retail establishments.

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 requested variance will not allow an unreasonable circumvention of the zoning regulations since the applicant has proposed an addition, that by the LDC is permitted, on a C-1 zoned parcel but used as a residential use requires that a private yard area be present since the parcel resides in a Traditional Neighborhood Form District and will be used as a multi-family residential unit.

**TECHNICAL REVIEW**

- None

**STAFF CONCLUSIONS**

The variance request appears to be adequately justified and meets the standard of review. 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 standard of review for granting a variance as established in the Land Development Code from the Land Development Code section 5.2.2.C, table 5.2.2 to allow an addition onto the rear of the principal structure to encroach by approximately 2 feet 9 inches into the minimum side yard setback for a variance of 2 feet 3 inches, as a result of the C-1 zoned parcel be adjacent to a single family residential use AND from the Land Development Code section 5.4.1.D.3 to allow the proposed rear addition and deck (second floor) to reduce the private yard area by approximately 629.19 sf.

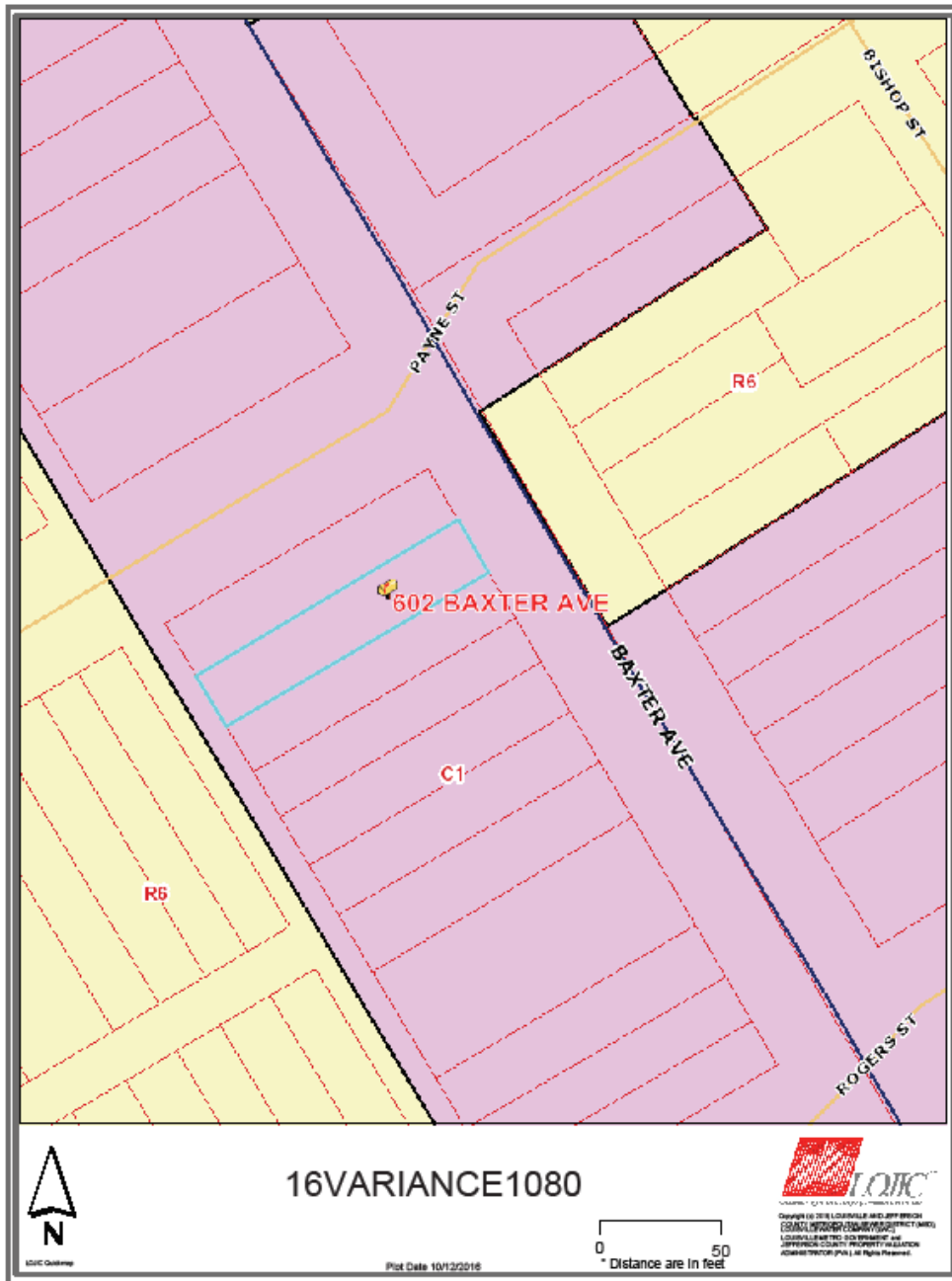
## NOTIFICATION

Date	Purpose of Notice	Recipients
November 1, 2016	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Subscribers of Council District 4 Notification of Development Proposals
November 1, 2016	Sign Posting for BOZA	Sign Posting on property

## ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

### 1. Zoning Map



Published Date:

VARIANCE1080

2. Aerial Photograph

