

# Board of Zoning Adjustment Staff Report

May 2, 2016



<b>Case No:</b>	16VARIANCE1026
<b>Request:</b>	Variance from the required 30% minimum private yard area requirement due to a proposed covered deck addition to the rear of the principal structure.
<b>Project Name:</b>	156 Pennsylvania Avenue
<b>Location:</b>	156 Pennsylvania Avenue
<b>Area:</b>	.14750 acres
<b>Owner:</b>	Pine Grove Design & Development
<b>Applicant:</b>	Richard Matheny – Cardinal Surveying
<b>Representative:</b>	Richard Matheny – Cardinal Surveying
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	9 – Bill Hollander
<b>Case Manager:</b>	Ross Allen, Planner I

### REQUEST

- Variance from LDC section 5.4.1.D.3 to allow the private yard area to be less than the required 30% of the overall lot size in a Traditional Neighborhood Form District.

Location	Requirement	Request	Variance
<b>Private Yard Area</b>	1880.7 sq. ft. (30% total lot area)	548 sq. ft. (30% private yard area)	1332.7 sq. ft. (70% of private yard area)

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

The subject site is located within an R-5 zoning district within a Traditional Neighborhood Form District. The applicant is proposing to construct a 331 square foot (approximate) covered deck onto the rear of the principal structure. The proposed covered deck would reduce the private yard area by roughly 70% (1332.7 sf.) leaving a total of 548 square feet which is 30% of the total minimum private yard area required. The applicants are requesting the variances as a result of a stop work order issued on Feb. 1, 2016 to come into compliance with the applicable LDC regulations.

### LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Residential Single Family	R-5	Traditional Neighborhood
<b>Proposed</b>	Residential Single Family	R-5	Traditional Neighborhood
<b>Surrounding Properties</b>			
<b>North</b>	Residential Single Family	R-5	Traditional Neighborhood
<b>South</b>	Residential Single Family	R-5	Traditional Neighborhood
<b>East</b>	Residential Single Family	R-5	Traditional Neighborhood
<b>West</b>	Residential Single Family	R-5	Traditional Neighborhood

### PREVIOUS CASES ON SITE

A stop work order was issued on 2/01/2016 by David Arnett (Building Inspector III – The Office of Construction Review) for a 16' ft. covered porch that was not in the permit scope. Please see page 11 of the staff report for the Stop Work Order.

An adjacent property owner called staff on April 27, 2016 at 4:19 pm to state he is in opposition to the proposed deck. The caller stated that the deck, as a result of the first level being elevated (level with the first floor of the home), results in an invasion in his privacy since the applicant's deck allows people to look down into his rear yard. He also stated that he would like some screening from the deck so as to afford him some privacy.

### INTERESTED PARTY COMMENTS

No comments were received from concerned citizens.

### APPLICABLE PLANS AND POLICIES

Land Development Code

### STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

- (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 proposed covered deck meets the setback requirements on the applicant's lot posing no risk to adjacent property owners.

- (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 lot size being slightly larger than the 6000 sq. threshold for a 30% Private Yard Area requirement and the tapering shape toward the rear of the lot, along with the garage location result in an open green space that is not sufficient to meet LDC. However, the applicant does have open green space along the southern side of the garage and rear of the garage, a rear yard area that is approximately 1000.8 sf. and homes in the general vicinity do have rear covered decks.

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

STAFF: The requested variance will cause a hazard or nuisance to the public since the rear covered deck will be within two feet of the neighbor's fence (chain link).

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

STAFF: The requested variance will allow an unreasonable circumvention of the zoning regulations since the proposed deck consumes 70% of the private yard area although this negates the open green space found to the rear and southern side of the garage.

### 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 not generally apply to land in the general vicinity or the same zone since the lot is located on a curve (front) in Pennsylvania Avenue with a 50' ft. wide frontage and a rear lot line of 25' ft. wide. The result is a narrowing of the lot which results in less space in the private yard area, excluding the driveway leading to the rear accessory 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 deprive the applicant of the reasonable use of the land since the provision of the regulation would require that the roof of the deck be removed, and/or the garage to be torn down in order to comply with LDC. Green open space exist is found along the southern side of the garage and rear of the garage to the property line.

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 since the applicant had made an addition onto the rear of the home and building permits were issued for a site plan that The Office of Construction Review permitted. However, upon inspection Inspector Arnett found that the addition as proposed to The Office of Construction review was in fact different than what he had encountered in the filed visit. As a result the issuance of a stop work order was issued and it was requested that the covered deck come into compliance. As a result, the applicant is not requesting the reduction in the private yard area.

### 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 section 5.4.1.D.3 allowing the private yard area to be less than the required minimum of 30% as the result of an addition to the rear of the principal structure.

### NOTIFICATION

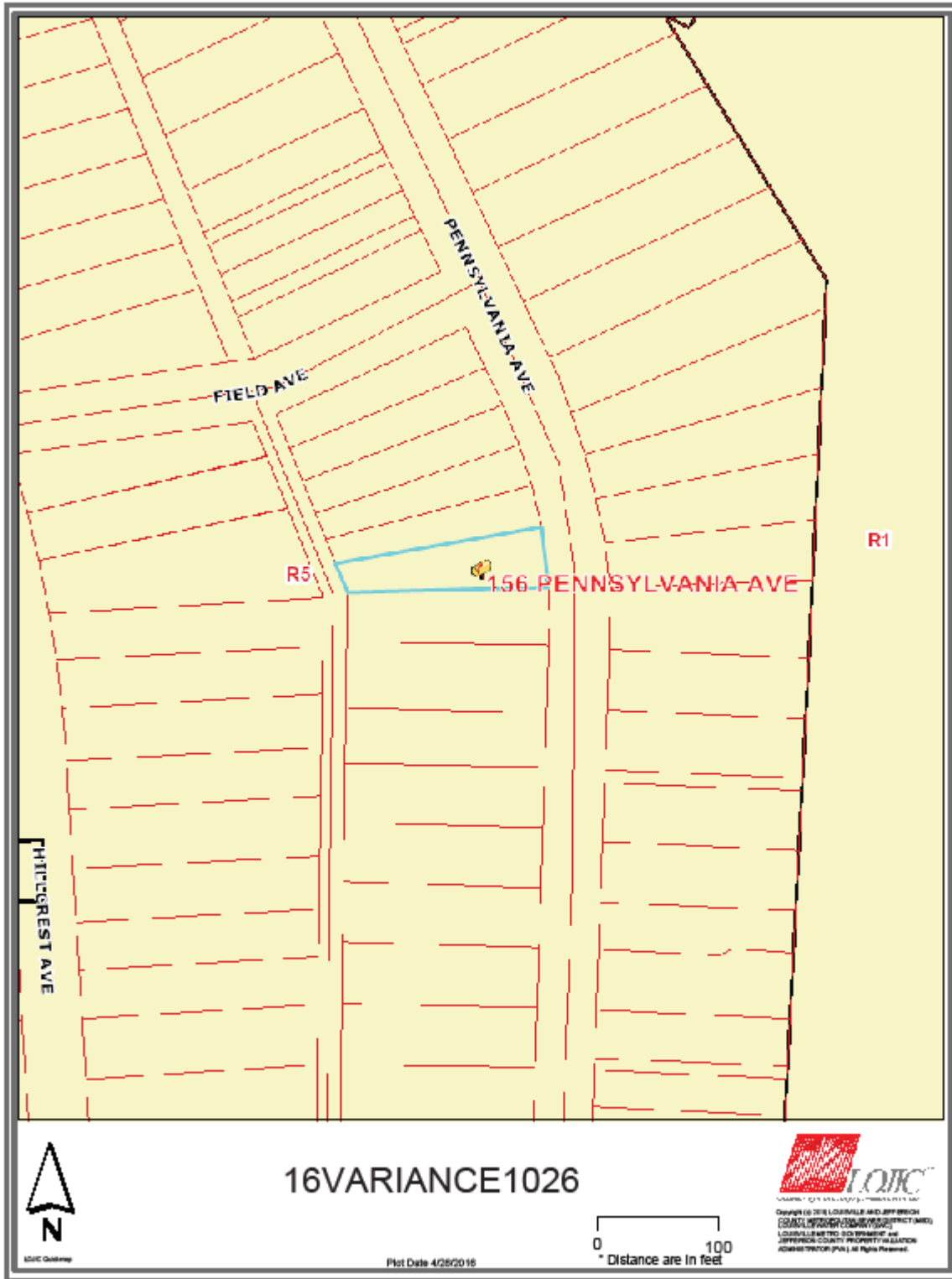
Date	Purpose of Notice	Recipients
May 16, 2016	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Subscribers of Council District 9 Notification of Development Proposals
April 29, 2016	Sign Posting for BOZA	Sign Posting on property

### ATTACHMENTS

1. Zoning Map

2. Aerial Photograph
3. Site Plan
4. Rear Elevations
5. South Side Elevation
6. Site Inspection Report
7. Building Permit/Stop Work Order

1. Zoning Map



2. Aerial Photograph





4. Rear Elevation

**RECEIVED**

APR 22 2016

LIVING &  
DESIGN SERVICES

1  
P2

REAR ELEVATION

SCALE 3/8" = 1'-0"

1  
P2

156 PENNSYLVANIA  
AVENUE  
RENOVATION

Anthony P Ehlers Jr, PE  
1824 Old Salem Road  
Lanesville, IN 47136  
(812) 989-7654  
anthonypehlersjrpe@gmail.com

16 VARIANCE 1026





6. Site Inspection Report



Looking down the property line between 154 and 156 Pennsylvania Ave.



The rear addition (covered deck) that was issued a stop work order.

7. **Building Permit/Stop Work Order**

**Permit Detail**



Louisville-Jefferson County Metro Government  
**Department of Develop Louisville**

**Office of Construction Review**  
 444 S. 5th Street, Suite 100  
 Louisville, KY 40202  
 502.574.3321  
[www.louisvilleky.gov/ip/Construction+Revie](http://www.louisvilleky.gov/ip/Construction+Revie)

**Building Permit**

<b>Permit Number:</b>	BL971820	<b>Issue Date:</b>	01/08/2016	<b>Expiration Date:</b>	07/30/2016
<b>Contractor:</b>	ERIC TOOHEY TOOHEY'S CONTRACTING 6125 PERMA DR LOUISVILLE, KY 40218	<b>Owner:</b>	CATHERINE DONNELLY 156 PENNSYLVANIA AVE LOUISVILLE, KY 40206	<b>Inspector:</b>	DAVID ARNETT (502) 773-2143 <a href="mailto:David.Arnett@LouisvilleKy.gov">David.Arnett@LouisvilleKy.gov</a>
<b>Location:</b>	156 PENNSYLVANIA AVE LOUISVILLE, KY 40206	<b>Estimated Cost:</b>	\$1.00	<b>Work Type:</b>	Addition
<b>Dept. of Commerce:</b>	Single Family	<b>Total Square Feet:</b>	2159	<b>Occupancy:</b>	Addition_156 PENNSYLVANIA AVE
<b>Work Description:</b>	STOP WORK ORDER ISSUED 02/01/2016 By David A. for 16' covered porch that was not in permit scope. Applicant will need variance for covered porch due to Private yard will not comply with Chapter 5 part 4 6.3 JM 536 sf addition. and remove load bearing walls and add LVL beam at Kitchen & Living area. Shall comply with 2013 KRC. Carbon monoxide detector required, per section R315. This parcel is for single family use only. No other use is allowed pursuant to this permit. Approvals in case file. See plans on site. Shall provide written window installation instructions provided by the window manufacturer per R612.1 to be delivered to the field inspector. All lvl beam calcs or truss load calcs shall be delivered to field inspector. It is the ownersâ€™ responsibility to abide by all subdivision rules in the completion of this project. The applicant is required to comply with all small city rules and regulations, if this building is located in a small city. Shall not encroach any easements, required yards or rights of way. Reviewed for Code Compliance per 2013 KRC section 106.3.1. JM ---PERMIT MODIFICATION FOR ORIGINAL PERMIT SF OF 600 SF. 680 SF FINISHED BASEMENT, 634 SF 1SF FLOOR INTERIOR RENOVATION, 24 SF 2ND FLOOR INTERIOR RENOVATION OF 2 NEW CLOSETS, 506 SF REAR ROOM ADDITION, AND 315 SF NEW REAR TREATED WOOD DECK FOR TOTAL OF 2159 SF TOTAL. LESS 600 SF ON ORIGINAL PERMIT = 1559 SF FOR ADDITIONAL FEES. PLEASE NOTE... THIS PERMIT ONLY HAS THE FINISHED BASEMENT AND REAR TREATED WOOD DECK ADDED FROM THE ORIGINAL PERMIT. OWNER HAS STAMPED AND APPROVED PLANS PER ENGINEER ANTHONY P. EHLERS JR. #30153. WORK ON REAR DECK TO CEASE CONSTRUCTION PER DAVID ARNETT UNTIL WAIVER APPLIED FOR HAS BEEN APPROVED FOR AND ADDITION 18 SF OF GREEN SPACE. - HH				

**Permit Detail**

<b>Total New Bedrooms:</b>	1	<b>Total Bedrooms:</b>	4	<b>Stories:</b>	2
<b>Single Family Units:</b>		<b>Total Single Family Units:</b>			
<b>Occupancy Date:</b>					
<b>Use Group</b>	R-3 R-3	<b>Square Footage</b>	600 1559	<b>Construction Type</b>	5-B

**Payments Received**

Description	Amount
Building Permit Fee	\$50.00
(PLAN REVIEW FEE)	\$116.00

**Inspection History**

Inspection Number	Inspection Date	Type	Inspector	Complete Date	Result	Inspector Comments
2208092	02/01/2016	ROUGH-IN	DARNETT	02/01/2016	CORRECT	A building permit will be required for the new covered rear deck. As discussed prior to construction you will not be allowed to build this structure without obtaining a variance.
2204881	01/26/2016	ROUGH-IN		01/26/2016	PRTIALPASS	No electrical or mechanicals installed at this time.
2204880	01/26/2016	FOUNDATION	DARNETT	01/26/2016	PASSED	Builder assumes all liability for footer as it was poured prior to full inspection. Only certain areas were checked for depth.

**Print Options**