

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



|                           |  |
|---------------------------|--|
| <b>Case No:</b>           | 19-VARIANCE-0046                             |
| <b>Project Name:</b>      | Side Yard Setback                            |
| <b>Location:</b>          | 1212 South Sixth Street                      |
| <b>Owners/Applicants:</b> | B. O'neil & Lisa Arnold                      |
| <b>Jurisdiction:</b>      | Louisville Metro                             |
| <b>Council District:</b>  | #6 – David James                             |
| <b>Case Manager:</b>      | Steve Hendrix, Planning & Design Coordinator |

**REQUEST**

- **Variance** from Land Development Code table 5.2.2. to allow a second story addition (removal of existing deck with replacement of storage area) to encroach into the required north side yard setback.

| Location                 | Requirement | Request   | Variance       |
|--------------------------|-------------|-----------|----------------|
| <b>Side Yard Setback</b> | 5 ft.       | 11 inches | 4 feet, 1 inch |

**CASE SUMMARY/BACKGROUND**

The subject property is located in the Old Louisville neighborhood between West Oak Street and West Ormsby Avenue and contains a two-story single-family residence that was built around 1898. The existing structure encroaches into the required northern side yard setback. The applicant is proposing to remove the second story rear deck and replace with an addition that will add storage space. The addition will be the same distance as the existing first floor of the house from the northern property line. The adjacent property owners have signed off on the proposal. Landmarks Commission has approved the plans, 19COA1099.

**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, 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 5.2.2. to allow the addition to encroach into the required side yard setback.

**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 will be 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, since the addition will replace the exact footprint of the deteriorated deck.

- (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 proposed addition and existing residence will have the same distance from the side property line.

- (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 distance will remain the same.

### **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 generally apply to land in the general vicinity, since the existing house does not meet the existing regulations.

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 preventing the applicant from constructing an addition that replaces the deteriorating second floor rear deck.

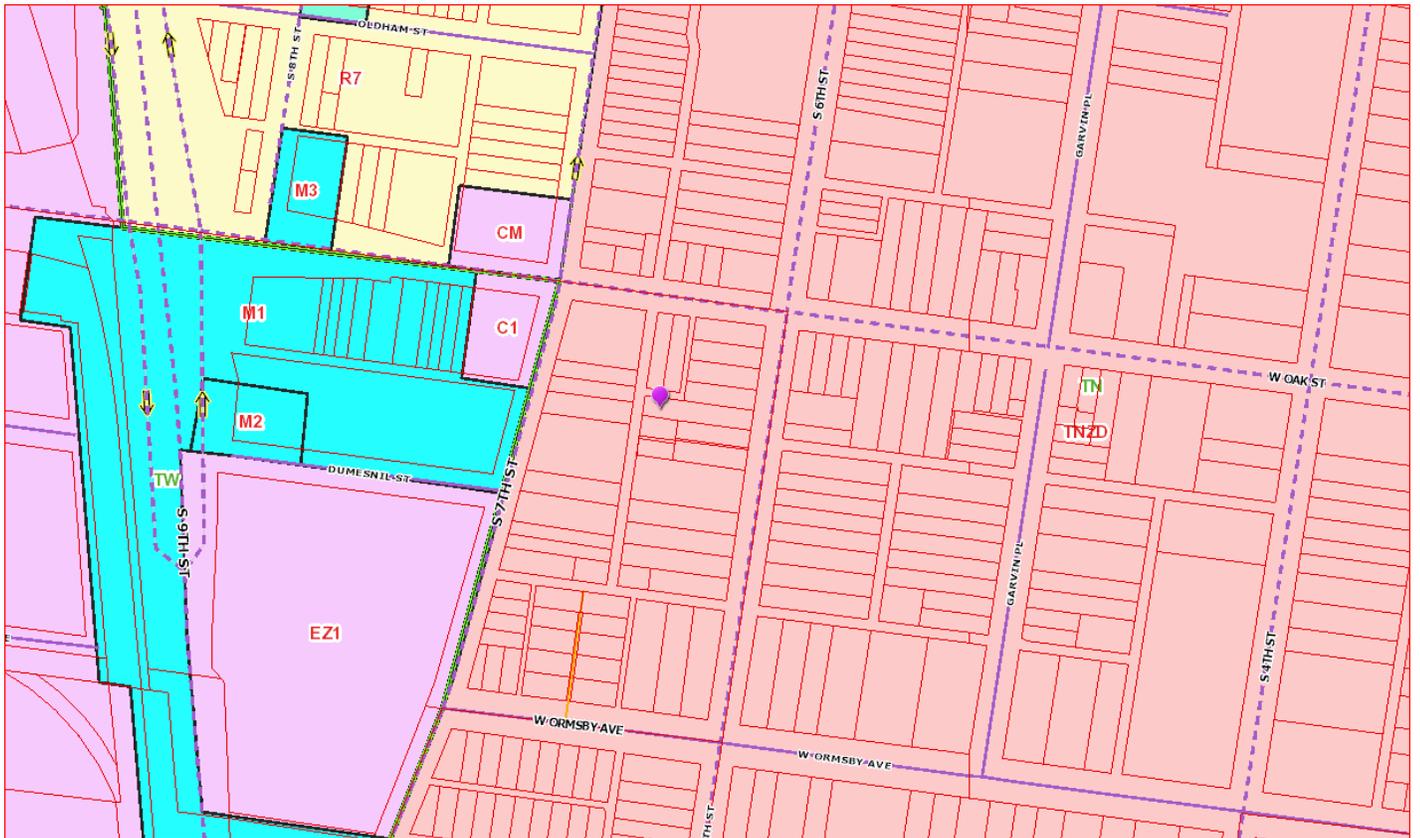
3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

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 as the applicant is requesting the variance and has not begun construction.

**ATTACHMENTS**

- 1. Zoning Map
- 2. Aerial Photograph
- 3. Site Plan
- 4. Explanation Letter
- 5. Site Photos

**1. Zoning Map**

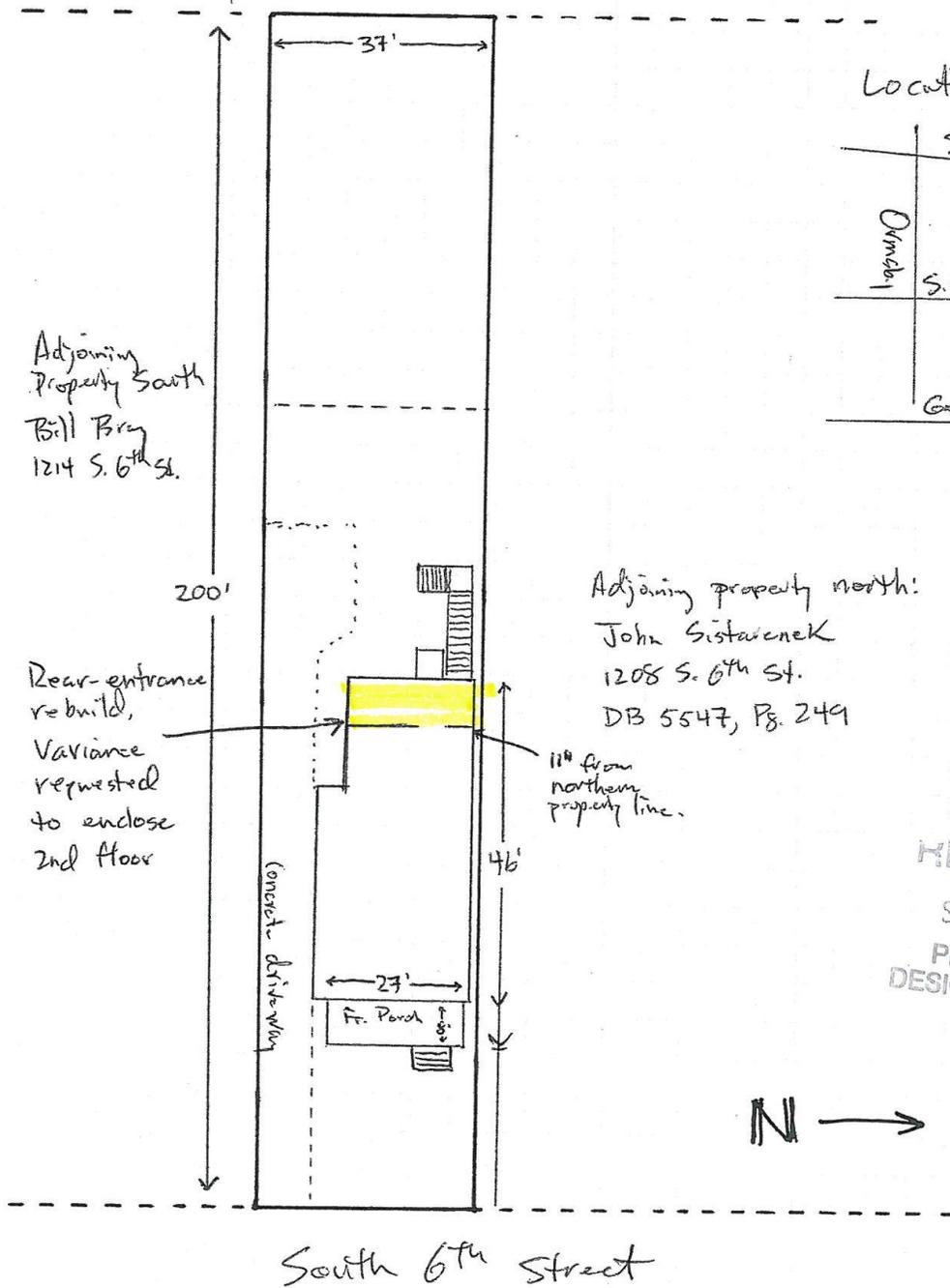


2. Aerial Photograph

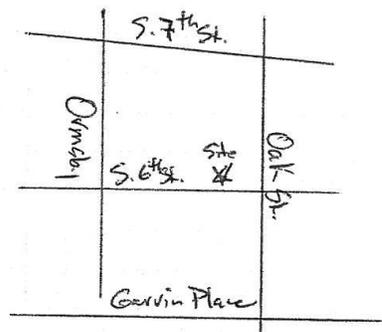


Site Plan - 1212 S. 6<sup>th</sup> St. 08-031D-0069-0000  
 DB 9785 PG 0562 Rear entrance rebuild

Alley between S. 6<sup>th</sup> St & S. 7<sup>th</sup> St.



Location map



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4. Explanation Letter

**Variance request summary**  
**1212 S. 6th Street, Louisville, Ky.**

Our brick, 2 1/2 story house was constructed around the year 1898. Entrances at the rear on both floors are original to the structure. As best can be determined, a first floor back porch was enclosed with a wood framed room around the middle of the last century and a covered sitting deck formed the roof.

The wood deck was a flat surface, and although covered with a roof, still encountered prevailing rain and snow from the west and north, as it was open in those directions.

The northwest corner has deteriorated beyond being renovated and needs replacement. We wish to rebuild the wood structure in the exact same footprint as the existing structure: width, depth and height. We will build on the existing solid foundation. At issue is the existing structure's proximity to the northern property line.

The first floor would be grandfathered as an existing structure. The variance requested pertains to the second floor. Instead of a deck, we wish to enclose that floor to create storage space. The second floor, although already existing, would be deemed "new construction" with the addition of the three walls, and out-of-favor with planning codes.

We present these reasons to grant the variance:

- It will better the home.

The current structure is in disrepair and is an eyesore. The deck faces a commercial area and is unsuitable as an area of relaxation or entertainment. The space is better suited as closet area for the upstairs bedrooms and laundry. Removing the flat deck will eliminate weather drainage concerns.

- It will improve the neighbor's privacy.

The second floor deck looks right down on our neighbor's deck, back yard, and back entrance. Enclosing this area increases their sense of privacy in their back yard. All of our neighbors have been informed of our plans and no one objects. Signatures of first tier neighbors are attached within.

- Enclosing the second floor is not unusual or uncharacteristic.

Two nearby homes (1206 S. 6th and 1218 S. 6th) have similar two-story wood framed rear entrance structures. The Landmarks Commission has approved our plans. The COA is 19COA1099.

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1212 S. 6th Street  
Rear entrance



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