

Board of Zoning Adjustment

Staff Report

August 29, 2022



Case No:	22-VARIANCE-0076
Project Name:	Hancock Street Variance
Location:	913 S. Hancock Street
Owner/Applicant:	Aimee Overly
Jurisdiction:	Louisville Metro
Council District:	4 – Jecorey Arthur
Case Manager:	Heather Pollock, Planner I

REQUESTS:

Variance from Land Development Code Table 5.2.2 to allow a structure to encroach into the side yard setback. And a **Variance** from Land Development Code section 5.4.1.D.2 to allow a private yard area to be less than the required 20% of the area of the lot.

Location	Requirement	Request	Variance
Side Yard Setback	2.9 ft.	0 ft.	2.9 ft.
Private Yard Area	870 sq. ft.	804 sq. ft.	66 sq. ft.

CASE SUMMARY/BACKGROUND

The subject property is zoned U-N Urban Neighborhood and is in the Traditional Neighborhood Form District. It is on the southeastern corner of S. Hancock St. and Coke St. in the Smoketown neighborhood. The site currently has a one-story single-family residential structure and the applicant received a variance last year to add a covered porch on the side adjacent to Coke St. The applicant is now requesting a variance for an added portion to the rear deck originally shown on the 21-VARIANCE-0071, this 136 sq. ft. addition will encroach into the side yard setback along the south side. In addition, the rear deck reduces the private yard area to be less than 20% of the area of the lot.

The subject property is 29 feet in width. Land Development Code section 5.1.10.F allows for a lot less than 50 feet in width to have a side yard setback requirement of 10% of the width of the lot. The required side yard setback is therefore 2.9 feet.

STAFF FINDINGS

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 Land Development Code.

TECHNICAL REVIEW

Applicant provided photos of survey pins to show compliance with condition of approval on previous variance.

INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

RELATED CASES

21-VARIANCE-0071: A street side yard setback variance for a porch, approved on August 30, 2021.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM TABLE 5.2.2

- (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, because the proposed structure must be constructed to comply with all building codes and the land development code, except where relief is requested.

- (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 there are other structures in the area that encroach into the side yard setback.

- (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 the structure must be constructed to comply with all building codes.

- (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 existing primary structure is already encroaching into the side yard setback and the deck addition lines up with it.

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 generally apply to land in the general vicinity or the same zone as the property is similar in size and shape to other properties in the area.

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 as the purpose of the addition was meant to secure an existing cellar access underneath the addition.

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 applicant has completed construction and is requesting the variance.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.4.1.D.2

- (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, because the structure must be constructed to comply with all applicable building codes, including fire codes, and the Land Development Code, except where relief is requested.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The deck addition will not alter the essential character of the general vicinity as it is built with material that is in character with the existing residence and surrounding area.

- (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 the structure must be constructed to comply with all building codes.

- (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 there is additional open space behind the accessory use area that cannot be counted towards the private yard calculation.

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 generally apply to land in the general vicinity or the same zone as the property is similar in size and shape to other properties in the area.

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 as there is additional open space behind the accessory use area that cannot be counted toward the private yard area.

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 applicant has completed construction and is requesting the variance.

VARIANCE PLAN REQUIREMENT

In accordance with LDC Section 11.5B.1.C (Requirement to Follow Approved Plan), a variance shall be approved only on the basis of the plan approved by the Board and shall be valid only for the location and area shown on the approved plan. All construction and operations must be conducted in accordance with the approved plan and conditions attached to the variance.

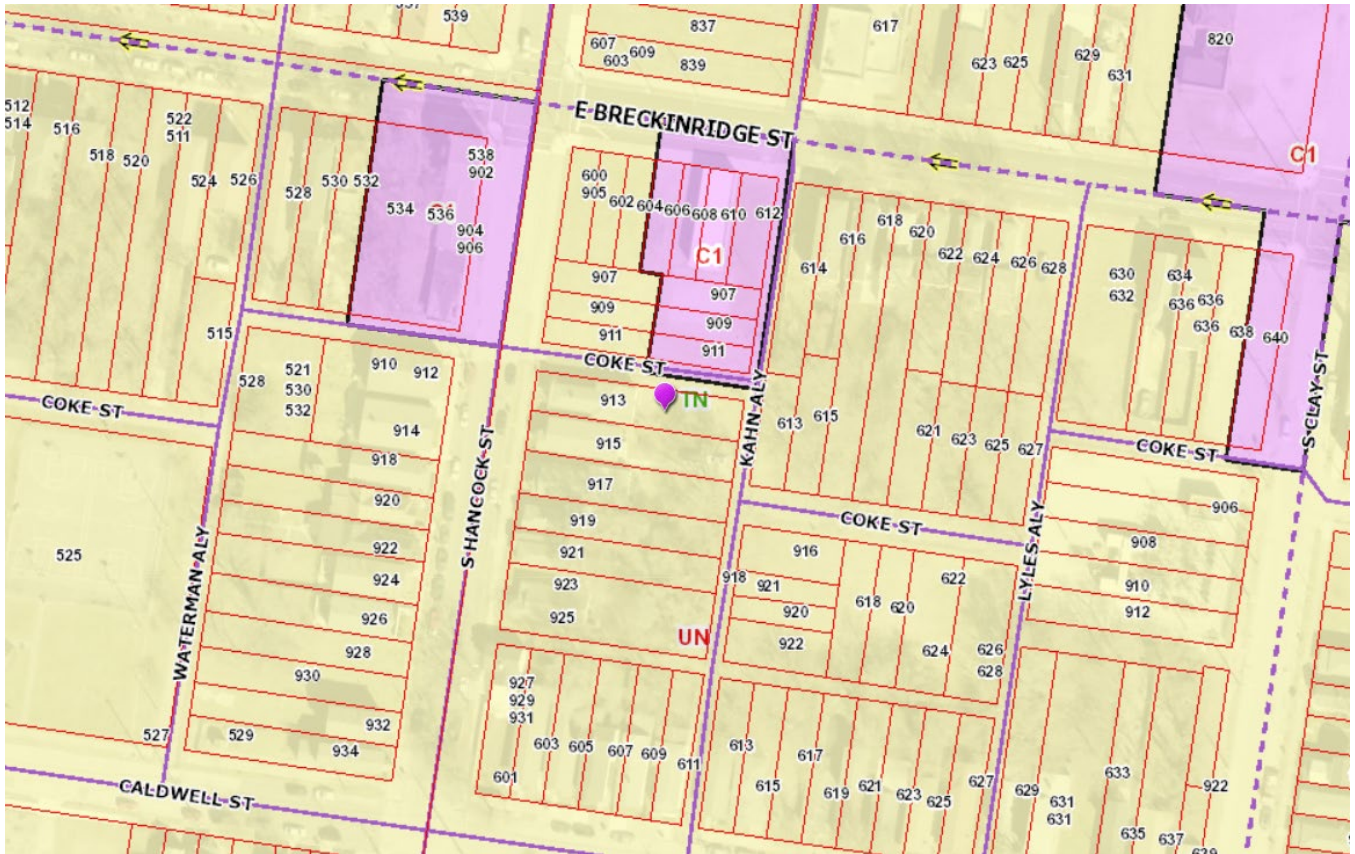
NOTIFICATION

Date	Purpose of Notice	Recipients
07/15/2022	Hearing before BOZA	1 st tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 4
07/21/2022	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



4. Site Photos



Front of subject property.



Property to the left across Coke St. Google 2019.



Properties to the right, Google 2019.



Properties across S. Hancock Street.

Network time is not synchronized
Local: Jul 21, 2022 at 9:04:20 AM EDT



Rear deck and private yard area



Side yard variance area.