

Board of Zoning Adjustment Staff Report

June 6, 2016



Case No:	16VARIANCE1030
Request:	Existing principal structure to encroach into the street side yard setback.
Project Name:	2229 Flat Rock Road
Location:	2229 Flat Rock Road
Area:	1.23970 acres
Owner:	Robert Stanley
Applicant:	Robert Stanley
Representative:	Robert Stanley
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton
Case Manager:	Ross Allen, Planner I

REQUEST

- Variances from the Land Development Code section 5.3.1.C.4 and table 5.3.1 to allow a principal structure to encroach into the street side yard setback along Aiken Road.

Location	Requirement	Request	Variance
Street Side Yard Setback	45' ft.	34' ft.	11' ft.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The subject site is located in an R-4 zoning district within a Suburban Neighborhood Form District. The applicant is constructing a new home with an accessory structure to the rear on a corner lot at Aiken and Flat Rock Road. The street side yard setback being 30' ft. and the additional supplemental setback from Aiken Road (a Secondary Collector) results in an additional 15' ft. for a total distance of 45' ft. for the required street side yard setback. The applicant has already begun construction of the home and had been misinformed resulting in the construction error and the need for the variance.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

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

PREVIOUS CASES ON SITE

No previous cases associated with the subject property.

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 footer to the housing is approximately 34 feet from the property line and approximately 40 feet from the edge of pavement. The home sits away from Aiken Road by approximately 40' ft. and the corner sight triangle of Aiken Road and Flat Rock Road are unobstructed for vision clearance.

- (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 closest home (located northeast of the subject site) has a setback less than the code requirement.

- (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 home sits away from Aiken Road by approximately 40' ft. and the corner sight triangle of Aiken Road and Flat Rock Road are unobstructed for vision clearance.

- (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 proposed residential structure would have a 34' ft. setback which is greater than the required street yard setback as listed in LDC section 5.3.1 table 5.3.1 (30' ft.). The supplemental setback requires the applicant to further distance the property as the result of being along a secondary collector roadway.

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 homes in the general vicinity are not located on a corner lot which requires the applicant to meet the supplemental setback requirement.

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 applicant has the foundation poured for the residence.

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 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 sought to rectify the error by requesting a variance for the street side yard setback.

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 5.3.1.C.4 and table 5.3.1 to allow the proposed street yard setback and including the supplemental setback to be less than the required 45' ft.

NOTIFICATION

Date	Purpose of Notice	Recipients
May 20, 2016	Hearing before BOZA	1 st tier adjoining property owners Subscribers of Council District 6 Notification of Development Proposals
May 23, 2016	Sign Posting for BOZA	Sign Posting on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Site Inspection Photo

2. Aerial Photograph



3. Site Plan



4. Site Inspection Photos



Looking North down Aiken Road at the setback of the house.