

Board of Zoning Adjustment Staff Report

Feb. 20, 2016



Case No:	16VARIANCE1097
Request:	Variance to allow a second story addition on an R-6 zoned parcel within a Traditional Neighborhood Form District to encroach into the side yard setback.
Project Name:	907 Goss Ave. Addition
Location:	907 Goss Ave.
Area:	.07910 acres or 3,445.596 sf.
Zoning:	R-6
Form District:	Traditional Neighborhood
Owner:	Ray Ackerman
Applicant:	Ray Ackerman
Representative:	Ray Ackerman
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
Case Manager:	Ross Allen, Planner I

REQUEST

- **Variance #1:** from the Land Development Code (Jan. 2017) from section 5.2.2.C, table 5.2.2 to allow a second story addition on an R-6 zoned parcel within a Traditional Neighborhood Form District to encroach into the side yard setback on the southeastern property line.

Location	Requirement	Request	Variance
Side Yard Setback Southeastern property line	3 ft.	1 ft.	2 ft.

- **Variance #2:** from the Land Development Code (Jan. 2017) from section 5.2.2.C, table 5.2.2 to allow a second story addition on an R-6 zoned parcel within a Traditional Neighborhood Form District to encroach into the side yard setback on the northwestern property line.

Location	Requirement	Request	Variance
Side Yard Setback Northwestern property line	3 ft.	0 ft.	3 ft.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to construct a 896 sf. second story addition onto the existing principal structure. The existing principal structure has a first floor building foot print of approximately 1,654.667 sf and the proposed second story would add approximately 895.56 sf. for a total of 2,550.23 for the gross floor area of the structure. The gross floor area is calculated to be approximately 2,550.23 sf. total and is located on a lot with a total area of 3,410 sf., meaning the applicant has reached the maximum floor area ratio (.75) as allowed by the R-6 zoning type. The new second story addition will have stairs leading to an entrance on the second

floor approximately 31 feet from the front property line along the southeastern property line. The second story will have a roofed deck area, 16 ft. 8 in. by 20 ft. 8 in., with a 3 ft. 6 in. railing along the front and sides. The second story addition will have two standard windows on the southeastern side and one on the northwestern with vinyl siding.

The applicant is proposing the addition as a result of the aging structure and would like to expand the gross floor area for added space on the existing structure. The second story addition requires the applicant to request the variance since the existing structure is not within the required setbacks which predates the current land development code requirements for the form district. The subject site is bounded on the northwestern by a camel-back shotgun home, to the southeast by a two story multifamily, to the south by the German Town Mill Lofts, and to the north by a small alley (rear of the structure).

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Residential Multi-Family	R-6	Traditional Neighborhood
Proposed	Residential Multi-Family	R-6	Traditional Neighborhood
Surrounding Properties			
North	Single Family Residential	R-5	Traditional Neighborhood
South	Residential Multi-Family	CR	Traditional Neighborhood
East	Residential Multi-Family	R-6	Traditional Neighborhood
West	Residential Single Family	R-6	Traditional Neighborhood

PREVIOUS CASES ON SITE

None

INTERESTED PARTY COMMENTS

No comments were received from concerned citizens. This is a business session item the applicant has obtained all 1st tier adjacent property owners signatures in the application.

APPLICABLE PLANS AND POLICIES

Land Development Code (Jan. 2017)

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #1: from the Land Development Code (Jan. 2017) from section 5.2.2.C, table 5.2.2 to allow a second story addition on an R-6 zoned parcel within a Traditional Neighborhood Form District to encroach into the side yard setback on the southeastern property line by approximately 2 ft.

- (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 was created prior to the existing zoning regulations and the new addition will allow a distance between the structures of approximately 3 ft. The applicant will be required to meet building codes for the proximity to the multifamily dwelling.

- (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 multi-family residential structure is already at a two story height and has the same zoning type.

- (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 along the southeastern property line the adjacent property is a two story multi-family residential unit. Building codes will need to be met for construction purposes.

- (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 because the zoning district, R-6, allows for a maximum floor area ratio of .75 which the applicant is meeting. Furthermore, the applicant is situated on a substandard parcel which was created prior to the current zoning regulations.

ADDITIONAL CONSIDERATIONS:

1. The requested variance does not arise from special circumstances which do 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 since the applicant's parcel is considered substandard, as do many of the parcels in the general vicinity.

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 several lots northwest of the subject site are substandard and predate the current zoning and form district regulations.

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 several lots northwest of the subject site are substandard and predate the current zoning and form district regulations.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE #2: from the Land Development Code (Jan. 2017) from section 5.2.2.C, table 5.2.2 to allow a second story addition on an R-6 zoned parcel within a Traditional Neighborhood Form District to encroach into the side yard setback on the northwestern property line by approximately 3 ft. (build to property line).

- (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 lot was created prior to the existing zoning regulations and the new addition will allow a distance between the structures of approximately 3 ft., the adjacent home to the northwest has a sidewalk along the applicant's property line. The applicant will be required to meet building codes for the proximity to the multifamily dwelling.

- (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 multi-family residential structure is already at a two story height and has the same zoning type.

- (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 along the northwestern property line the adjacent property is a camel-back shotgun house, a two story multi-family residential unit and a three foot sidewalk is found between the applicant's property line and the adjacent home. Building codes will need to be met for construction purposes.

- (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 because the zoning district, R-6, allows for a maximum floor area ratio of .75 which the applicant is meeting. Furthermore, the applicant is situated on a substandard parcel which was created prior to the current zoning regulations.

ADDITIONAL CONSIDERATIONS:

1. The requested variance does not arise from special circumstances which do 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 since the applicant's parcel is considered substandard, as do many of the parcels in the general vicinity.

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.

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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 several lots northwest of the subject site are substandard and predate the current zoning and form district regulations.

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 (Jan. 2017) from section 5.2.2.C, table 5.2.2 to allow an existing structure with an addition onto the existing first floor to encroach into the side yard setback along the northwestern property line by approximately 3 feet and encroach into the side yard setback along the southeastern property line by approximately 2 feet.

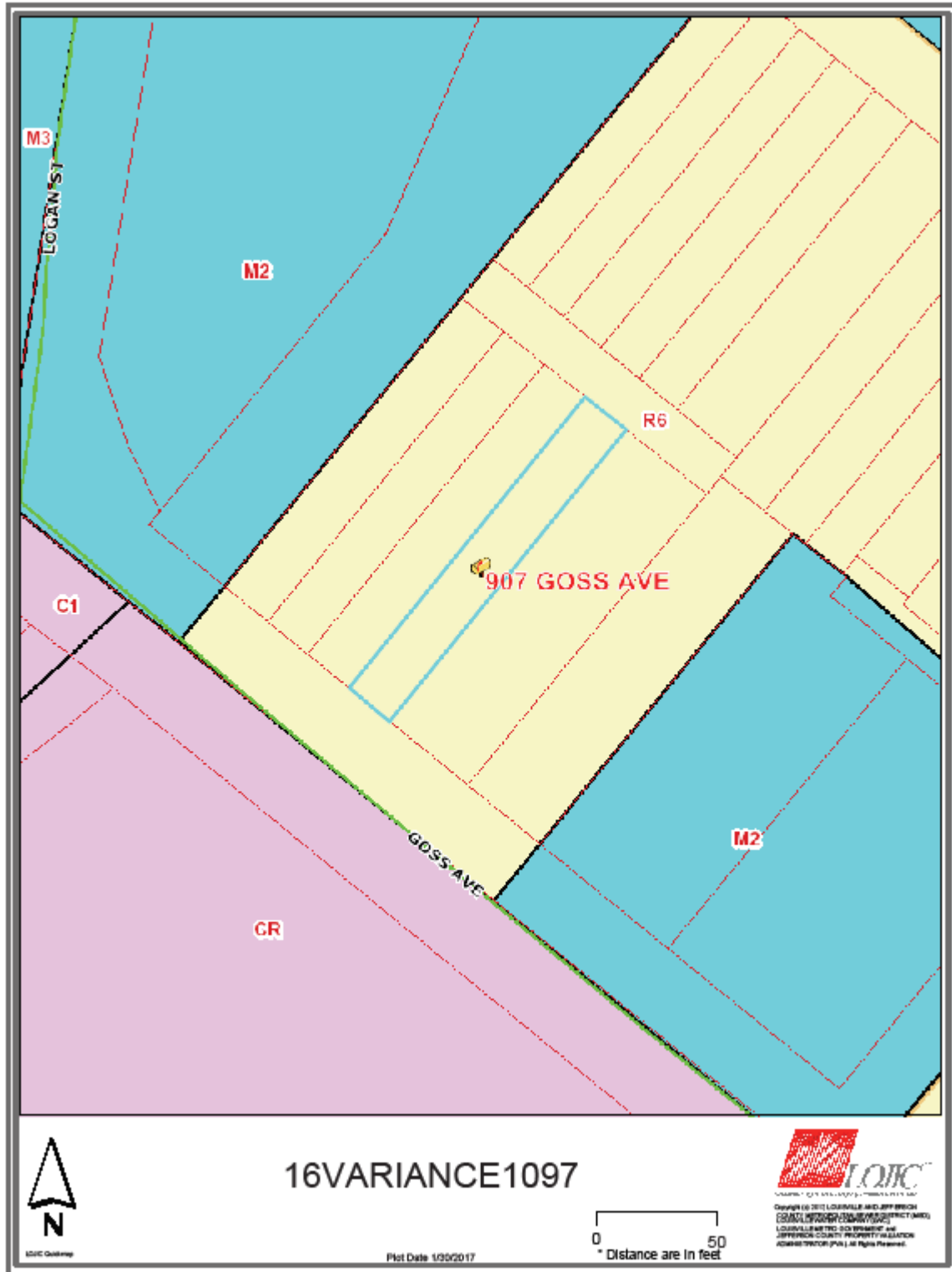
NOTIFICATION

Date	Purpose of Notice	Recipients
Feb. 3, 2017	Hearing before BOZA	1 st tier adjoining property owners Subscribers of Council District 10 Notification of Development Proposals
Feb. 3, 2017	Sign Posting for BOZA	Sign Posting on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

