

Board of Zoning Adjustment
Staff Report
 May 15, 2023



Case No:	23-VARIANCE-0036
Project Name:	Comfort Care Home
Location:	1427 Story Avenue
Owner:	Karen Cassidy, Hildegard House
Applicant:	Mark Clore, Clore Construction Co.
Jurisdiction:	Louisville Metro
Council District:	4- Jecorey Arthur
Case Manager:	Amy Brooks, Planner I

REQUEST:

Variance from the Land Development Code Table 5.2.2 to allow a primary structure to encroach into the side yard setback.

Location	Requirement	Request	Variance
Side Yard Setback	5 ft.	0 ft.	5 ft.
Rear Yard Setback	5 ft.	1 ft.	4 ft.

CASE SUMMARY/BACKGROUND

The subject site is zoned C-1 Commercial in the Traditional Marketplace Corridor form district. The property is located between both Bowles and Story Avenues in the Butchertown Neighborhood. The subject property is currently developed with an 883 square-foot home that was purchased by Hildegard House in 2022. Hildegard provides end-of-life care for individuals who have no home or family. The applicant is renovating a single-family home into a residential care facility that will allow the organization to expand their services from their main campus located across the street. Hildegard House will provide transportation services for their clients, and as such, are seeking to build a deck with an attached portico that will provide shelter for the wheelchair lift and exterior stairs. The portico overhang will be built to the side property and rear property lines and will require a dimensional exception from current regulations.

STAFF FINDINGS

Staff finds that the requested side yard setback variance meets standards (b), (c), and (d), but staff is concerned that the variance request does not meet standard (a) because construction and maintenance of the addition may have an adverse impact on the adjoining property owner.

Staff finds that the requested rear yard setback is adequately justified based on staff’s analysis contained within 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 the Land Development Code.

TECHNICAL REVIEW

The applicant is required to obtain a building permit and the structure may require alterations to the proposed building plans in order to meet building code requirements.

INTERESTED PARTY COMMENTS

One support comment was received by staff.

RELATED CASES:

None.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.2.2 (Side Yard Setback)

- (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. However, staff is concerned that the variance could adversely affect the adjacent property owner because construction and maintenance of the structure may require encroachment onto the adjacent property along the northeast property line.

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

STAFF: The structure will not alter the essential character of the general vicinity as it has been built with material that is in character with the surrounding residential neighborhood. The proposed renovations have been reviewed for conformance to the Butchertown Historic Preservation District guidelines.

- (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 structure is compatible with other development in the area. There are principal structures at 1435 and 1437 Story Ave that appear to encroach into the side yard setback. (Please see aerial photograph for example.)

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 the land in the generally vicinity or the same zone as the lot is similar in size and shape to the surrounding properties.

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 residential care home must provide a roofed area for its patients being transported to and from the facility.

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. The applicant has not begun construction and has applied for a variance.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.2.2 (Rear Yard Setback)

- (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. In addition, the proposed addition will not impact vision clearance for vehicular traffic maneuvering along Bowles Ave, which measures approximately 18 ft in width using GIS.

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

STAFF: The proposed structure will not alter the essential character of the general vicinity as it has been built with material that is in character with the surrounding residential neighborhood. The proposed renovations have been reviewed for conformance to the Butchertown Historic Preservation District guidelines.

- (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 structure is compatible with other development in the area. There are houses on Quincy Street which encroach into heavily into the rear yard setbacks. Hence, this request seems compatible with the established pattern of setbacks within the surrounding area. (See example under site photos.)

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 the land in the generally vicinity or the same zone as the lot is similar in size and shape to the surrounding properties. The existing structure’s front yard setback is greatly recessed from Story Ave.

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 residential care home must provide a roofed area for its patients being transported to and from the facility. In addition, the principal structure is recessed heavily from Story Ave limiting the available area for the required rear yard.

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. The applicant has not begun construction and has applied for a 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

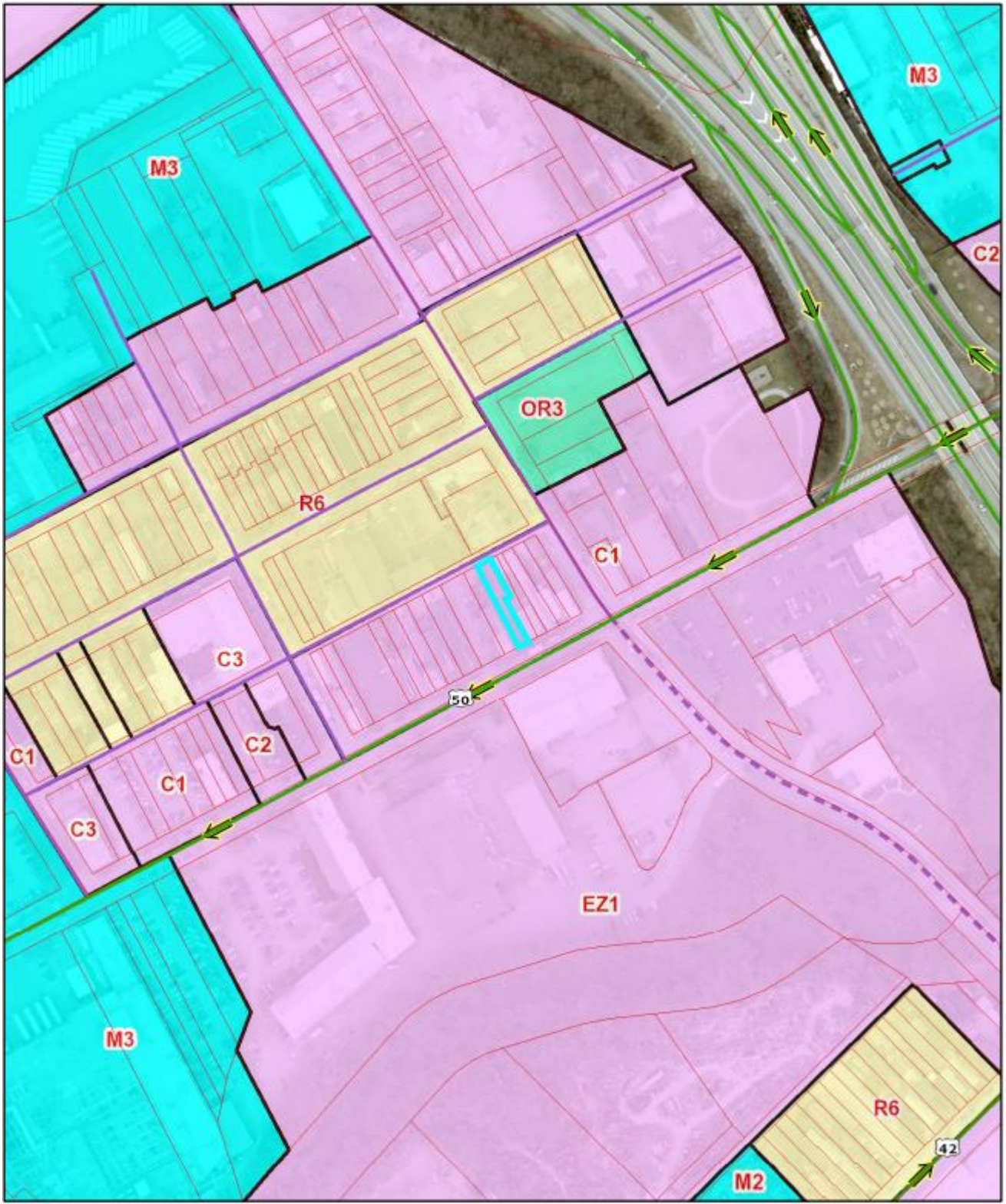
Date	Purpose of Notice	Recipients
5/1/2023	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 4
5/3/2023	Hearing before BOZA	Notice posted on property

ATTACHMENTS

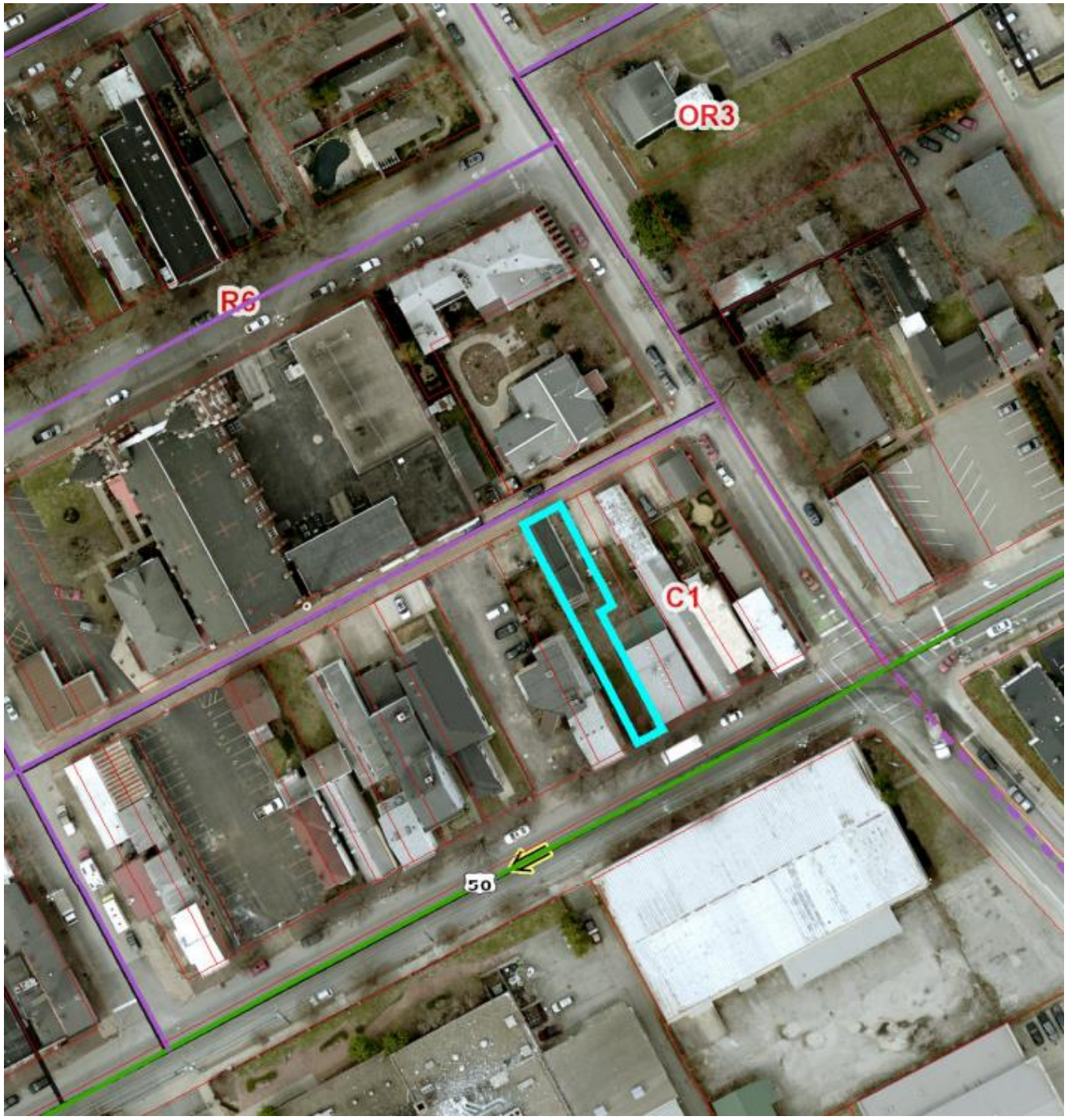
1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Elevations

5. Site Photos

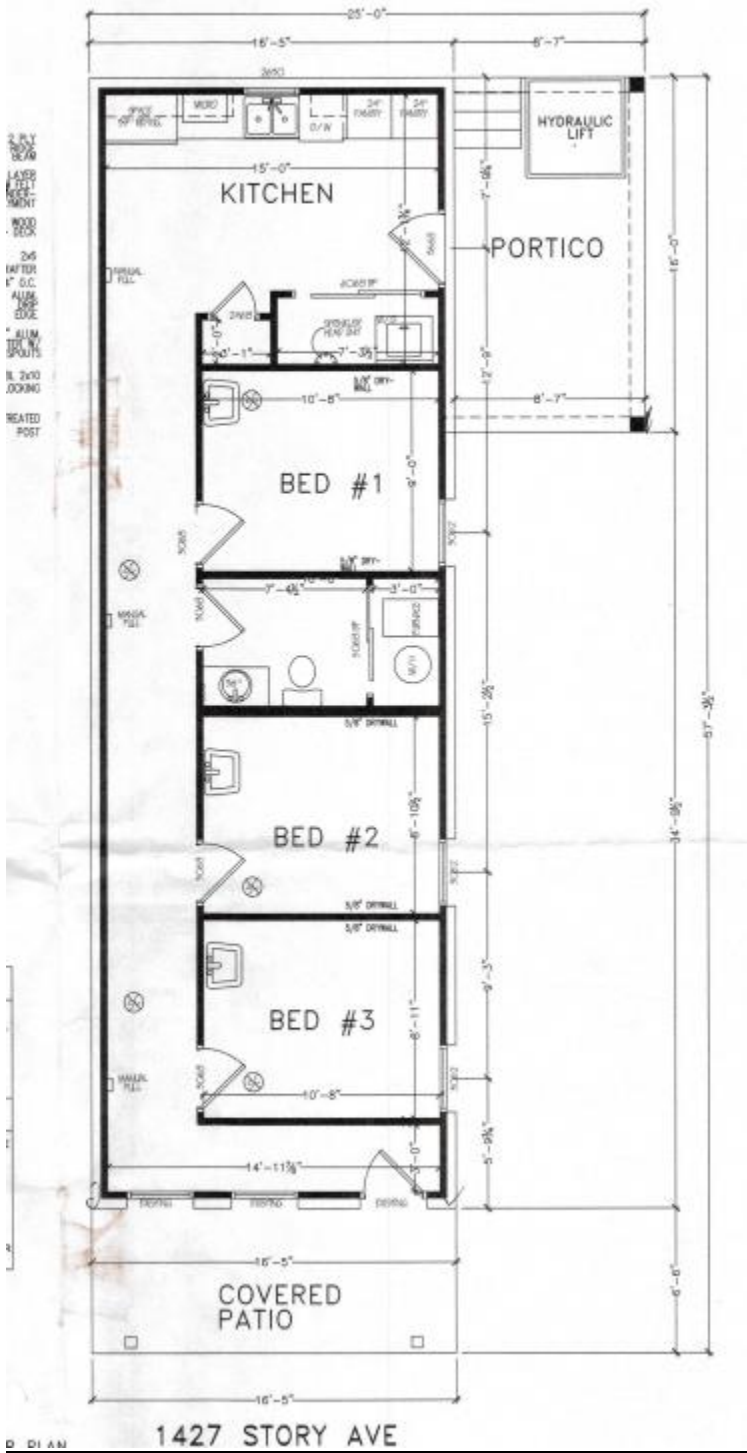
1. Zoning Map



2. Aerial Photograph



3. Site Plan



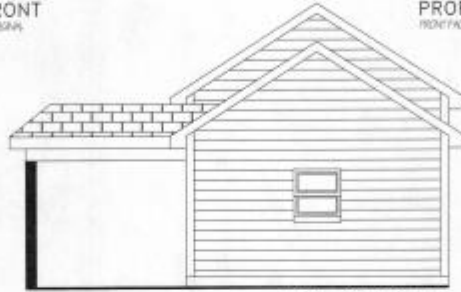
4. Elevations



1427 STORY AVE
EXISTING FRONT
FRONT FACADE TO REMAIN ORIGINAL



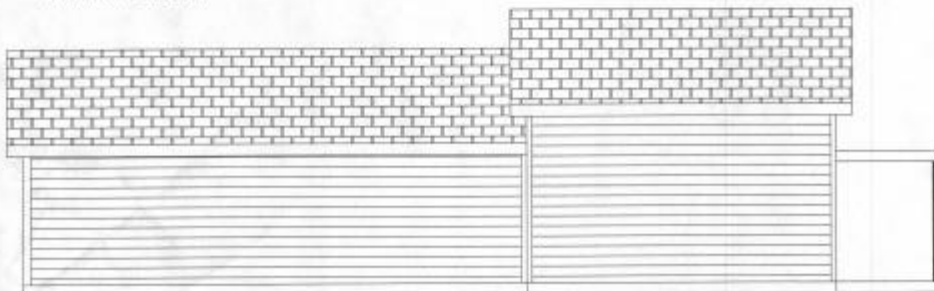
1427 STORY AVE
PROPOSED FRONT
FRONT FACADE TO REMAIN ORIGINAL



1427 STORY AVE
PROPOSED REAR



1427 STORY AVE
PROPOSED RIGHT



1427 STORY AVE
PROPOSED LEFT

DRAWN BY: JAMES K. NIX
INTELLIGENT DESIGNS
DESIGN DRAFTING SERVICES
DESIGN@INSDC.COM.NET
CHARLESTOWN, IN 47311
CELL: 502-693-0007

5. Site Photos



Front of subject property.



Property to the right.



Property to the left. Google Street View, 2022.



Across Bowles from the subject property. Google street view, 2022.



View of variance area for covered portico.



View of variance request area.



Example of home within neighborhood that has a reduced rear setback.