

**Board of Zoning Adjustment**  
**Staff Report**  
 January 22, 2018



<b>Case No:</b>	17VARIANCE1104
<b>Project Name:</b>	937 E Oak Street Addition
<b>Location:</b>	937 E Oak Street
<b>Owner(s):</b>	Weiss & Smith Real Estate
<b>Applicant:</b>	Jason Weiss
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	4 – Barbara Sexton Smith
<b>Case Manager:</b>	Dante St. Germain, Planner I

**REQUEST**

- **Variance** from Land Development Code section 5.1.10.F to allow a structure to encroach into the required side yard setback.

Location	Requirement	Request	Variance
<b>Side Yard Setback</b>	2.43 feet	0.5 feet	1.93 feet

**CASE SUMMARY/BACKGROUND**

The subject property is located in the Germantown neighborhood, and currently contains a one-story single-family residence. The applicant proposes to construct a new second-story addition onto the existing principal structure. The existing structure encroaches into the required side yard setback by 1.93 feet, and the second-story addition is proposed to be in line with the existing structure. The applicant therefore requests a variance to allow the second story to encroach into the side yard setback.

The lot is 24.25 feet in width and 150 feet in depth. Land Development Code section 5.1.10.F allows for lots less than 50 feet in width to have side yard setbacks equal to 10% of the width of the lot. The required side yard setback is therefore 2.43 feet.

**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, 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 from section 5.1.10.F to allow a structure to encroach into the required side yard setback.

**TECHNICAL REVIEW**

- No technical review was undertaken.

## **INTERESTED PARTY COMMENTS**

No interested party comments were received.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.1.10.F**

- (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 existing structure encroaches into the required setback, which has caused no known adverse effects.

- (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 reduced setbacks are common in the immediate vicinity of the subject property.

- (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 as the abutting lot closest to the requested variance location is currently undeveloped, and a 4 foot setback is proposed on the opposite side of the lot where another structure exists.

- (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 second floor addition will need to have walls in line with the existing first-story walls in order to avoid more complicated and potentially costly engineering challenges which would arise from having the second story off-set to comply with the required setback.

## **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 arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the lot is unusually narrow, and the first floor structure already exists and already encroaches into the required side yard setback.

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 may create an unnecessary hardship on the applicant by requiring the applicant to off-set the second floor, creating a significant and potentially costly engineering challenge to maintain a safe structure.

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.

**NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>01/03/2018</b>	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 4
<b>01/05/2018</b>	Hearing before BOZA	Notice posted on property

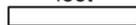
**ATTACHMENTS**

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

1. Zoning Map



937 E Oak Street  
feet



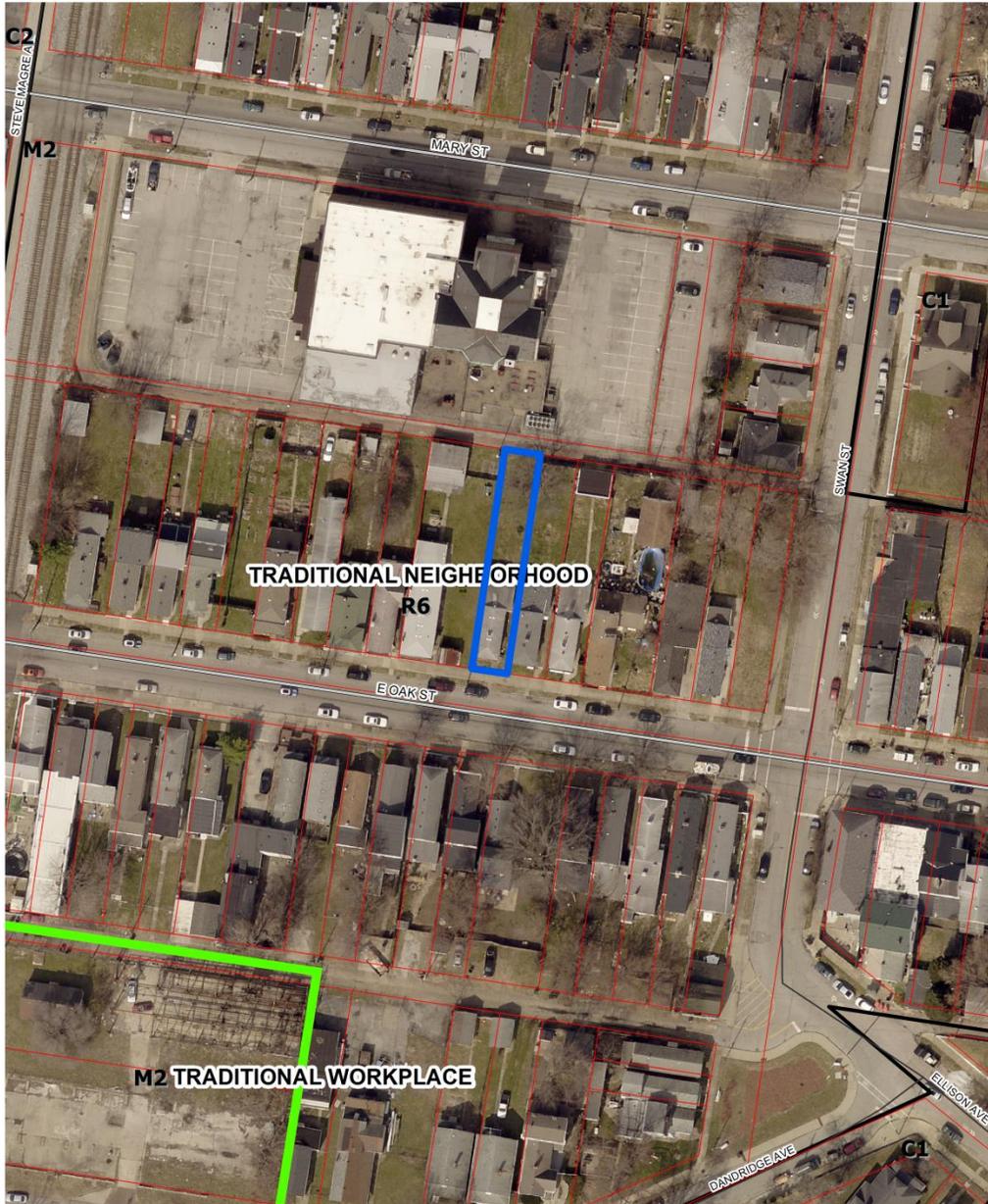
175

Map Created: 1/10/2018



Copyright (c) 2018, LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT (MSD), LOUISVILLE WATER COMPANY (LWC), LOUISVILLE METRO GOVERNMENT and JEFFERSON COUNTY PROPERTY VALUATION ADMINISTRATOR (PVA). All Rights Reserved.

2. Aerial Photograph



937 E Oak Street  
feet



80  
Map Created: 1/10/2018



Copyright (c) 2018, LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT (MSD), LOUISVILLE WATER COMPANY (LWC), LOUISVILLE METRO GOVERNMENT and JEFFERSON COUNTY PROPERTY VALUATION ADMINISTRATOR (PVA). All Rights Reserved.

3. Site Plan



4. Elevation



937 E Oak

RECEIVED  
DEC 15 2017  
PLANNING &  
DESIGN SERVICES

17 VARIANCE 1104

5. Site Photos



The front of the subject property.



The undeveloped lot to the left of the subject property, and the location of the requested variance.



The property to the right of the subject property.



The properties across E Oak Street.