

**Board of Zoning Adjustment**  
**Staff Report**  
 January 27, 2020



<b>Case No:</b>	19-VARIANCE-0078
<b>Project Name:</b>	Mulberry Variance
<b>Location:</b>	1137 Mulberry St
<b>Owner(s):</b>	Katy Fulton, LLC
<b>Applicant:</b>	Rachel Harman
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	10 – Pat Mulvihill
<b>Case Manager:</b>	Nia Holt, Planner I

**REQUESTS:**

Variance from Land Development Code table 5.2.2 to allow a principal structure to encroach into the required side yard setbacks.

Location	Requirement	Request	Variance
West Side Yard	3 ft.	0 ft.	3 ft.

**CASE SUMMARY/BACKGROUND**

The subject site is zoned R-5 Single-Family Residential in the Traditional Neighborhood Form District. It is a single-family structure located in the Schnitzelburg neighborhood. The applicant is proposing to add height to the existing wall on the West side of the property; extending the second story.

**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 the Land Development Code from table 5.2.2 to allow a principal structure to encroach into the required side yard setbacks.

**TECHNICAL REVIEW**

Staff has received no comments from other agencies.

**INTERESTED PARTY COMMENTS**

Staff has received no comments from interested parties concerning this proposal.

**RELATED CASES**

A Conditional Use Permit was approved on the property under case #18CUP1198.

**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 as the structure will be constructed to comply with all building codes, including fire codes.

- (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 the proposed structure will align with the existing street wall and keep in character with other structures in the general vicinity.

- (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 it is an existing structure and the addition will be constructed to comply with all building codes, including fire 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 will help to keep the existing street wall and built on the same footprint.

**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: There not special circumstances associated with this variance. However, there are similar structures within the general vicinity of the subject property.

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 not permit the property owner to construct additional square footage to the structure in the manner that is consist with the character of the neighborhood.

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 as the applicant is requesting the variance and has not begun construction.

**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**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>01/09/20</b>	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 4
<b>01/10/20</b>	Hearing before BOZA	Notice posted on property

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Condition of Approval

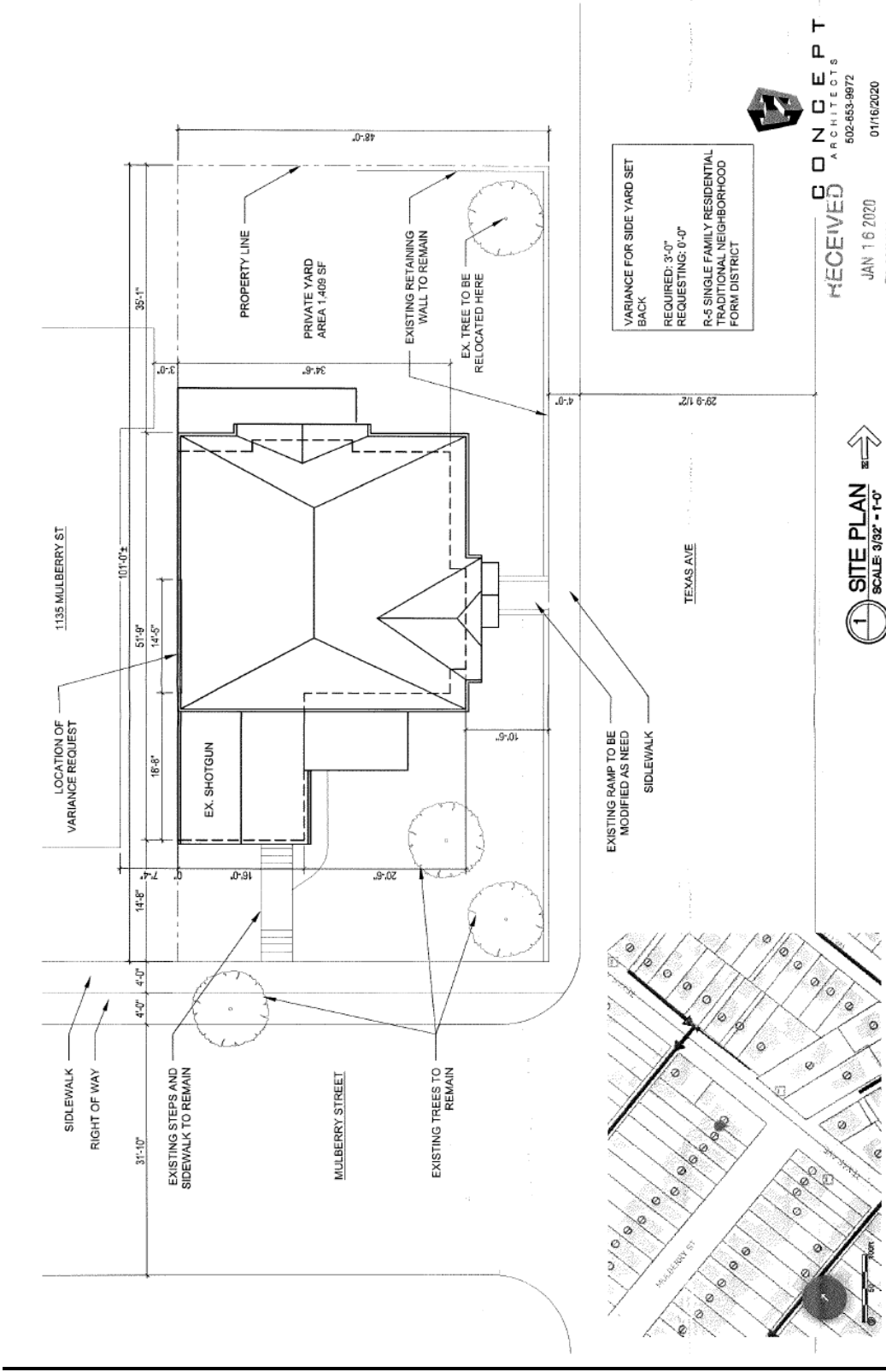
1. Zoning Map



2. Aerial Photograph



3. Site Plan



#### **4. Condition of Approval**

Based upon the survey on January 16, 2020, the Western property line shall be staked in the field. No projections from the façade or building foundation shall cross the property line; any such projections shall be accommodated by stepping back the proposed structure from the property line.





