

**Board of Zoning Adjustment**  
**Staff Report**  
 June 3, 2019



<b>Case No:</b>	19VARIANCE1033
<b>Project Name:</b>	Payne Street Variance
<b>Location:</b>	1209 Payne Street
<b>Owner/Applicant:</b>	John Morgan
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	4 – Barbara Sexton Smith
<b>Case Manager:</b>	Zach Schwager, Planner I

**REQUEST**

- **Variances**
  1. from Land Development Code section 5.1.10.F to allow a structure to encroach into the required western side yard setback.
  2. from Land Development Code section 5.1.10.F to allow a structure to encroach into the required eastern side yard setback.

<b>Location</b>	<b>Requirement</b>	<b>Request</b>	<b>Variance</b>
<b>Western side yard</b>	2 ft. 6 in.	0 ft.	2 ft. 6 in.
<b>Eastern side yard</b>	2 ft. 6 in.	8 in.	1 ft. 10 in.

**CASE SUMMARY/BACKGROUND**

The subject property is zoned R-6 and is in the Traditional Neighborhood form district. It is located in the Irish Hill neighborhood and contains a one-story single-family residence. The applicant is requesting a variance to encroach into each side yard. The western side yard has an existing addition with a 0 ft. side yard setback and the applicant is proposing to change the roof. The applicant is proposing to add a side deck and entrance within the eastern side yard setback.

The subject property is 25 feet in width. Land Development Code section 5.1.10.F allows for a lot less than 50 feet in width to have a side yard setback requirement of 10% of the width of the lot. The required side yard setback is therefore 2.5 feet.

**STAFF FINDING**

Staff finds that the requested variances are adequately justified and meet the standards 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 of granting variances established in the Land Development Code from section 5.1.10.F to allow an addition to encroach into the required eastern side yard setback and for a change in the roof to an existing addition on the rear of the residence.

## **INTERESTED PARTY COMMENTS**

No interested party comments were received.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.1.10.F (1)**

- (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 need to 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 rear addition already exists.

- (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 rear addition already 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 encroachment is the same as the existing side yard setback.

## **ADDITIONAL CONSIDERATIONS:**

1. The requested variance does arise 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 land in the general vicinity or the same zone as the subject property is similar in size and shape to 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 they would have to remove and shift the existing addition to meet the setback requirements.

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.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.1.10.F (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 need to 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 addition would be similar in design to the other shotgun residences in the vicinity. Also, the addition will be behind an existing privacy fence and will not be visible from the right-of-way.

- (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 addition would be similar to the neighboring properties and will be behind an existing privacy fence.

- (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 encroachment is comparable to the existing side yard setback.

**ADDITIONAL CONSIDERATIONS:**

1. The requested variance does arise 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 land in the general vicinity or the same zone as the subject property is similar in size and shape to 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 proposed addition will be setback the same distance as the existing 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.

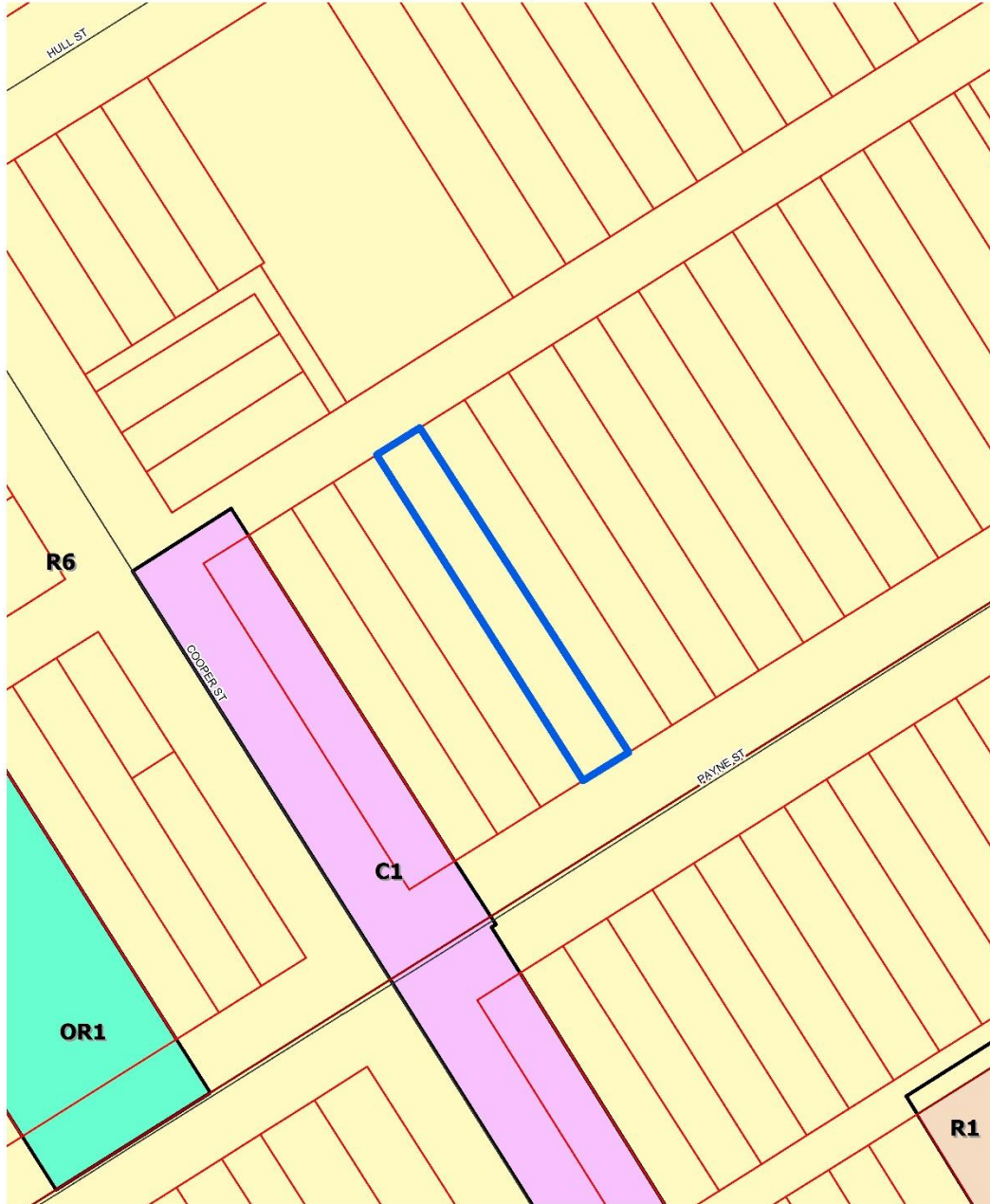
**NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>04/27/2019</b>	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 4
<b>05/23/2019</b>	Hearing before BOZA	Notice posted on property

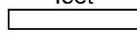
**ATTACHMENTS**

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

1. **Zoning Map**



1209 Payne Street  
feet



60  
Map Created: 5/22/2019

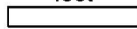


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2. Aerial Photograph



1209 Payne Street  
feet



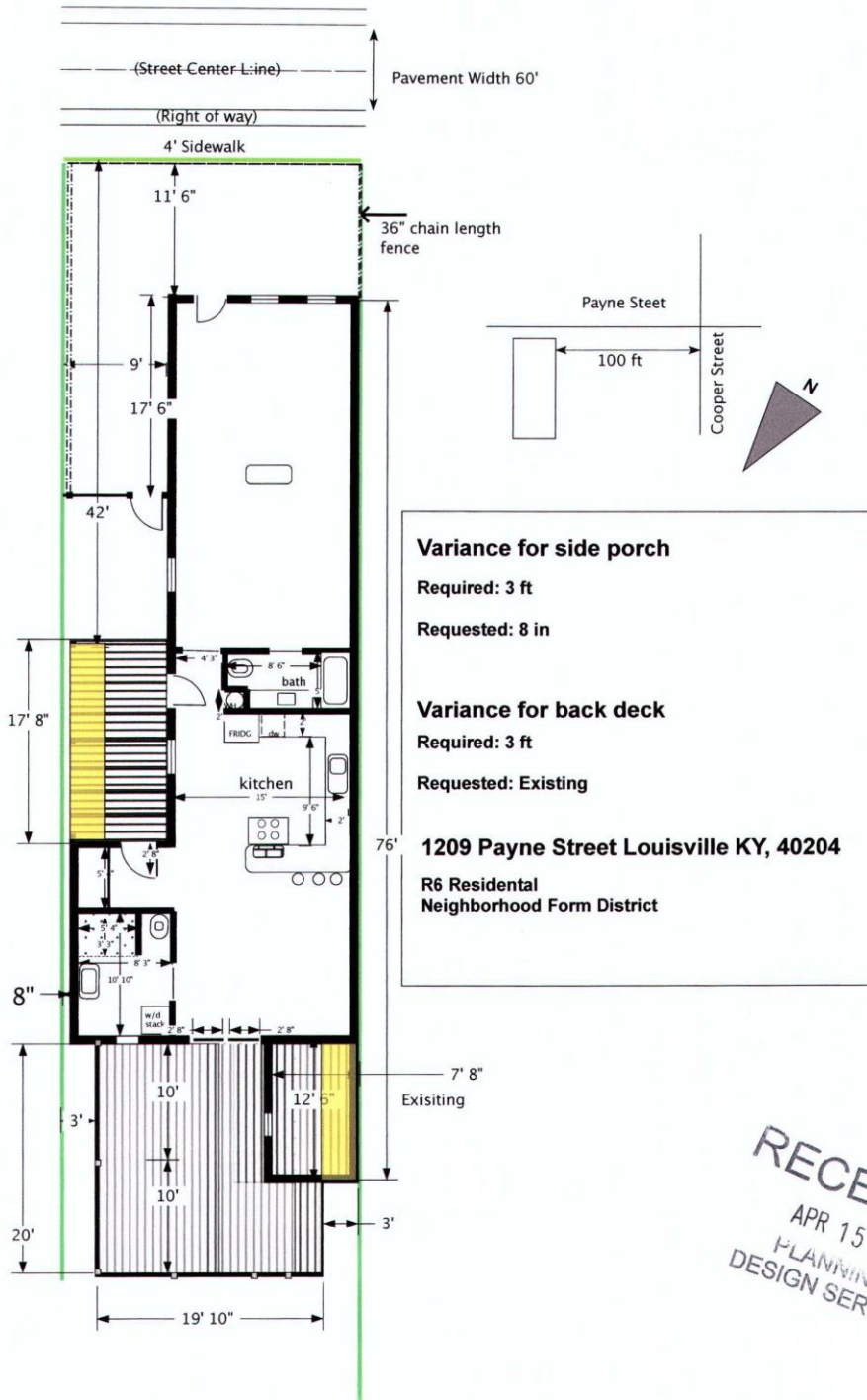
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Map Created: 5/22/2019



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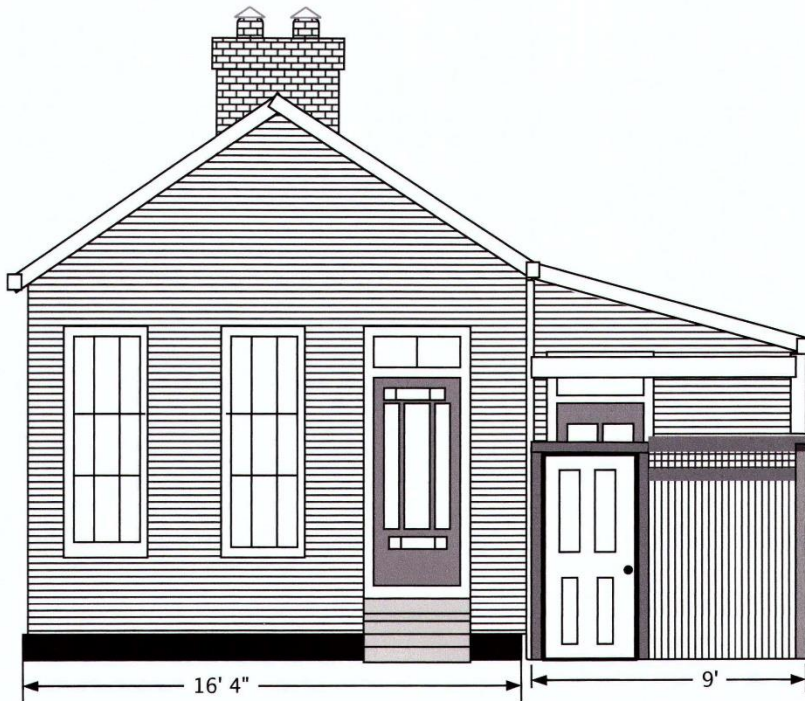
3. **Site Plan**



19Variance1033

RECEIVED  
APR 15 2014  
PLANNING &  
DESIGN SERVICES

4. Elevations

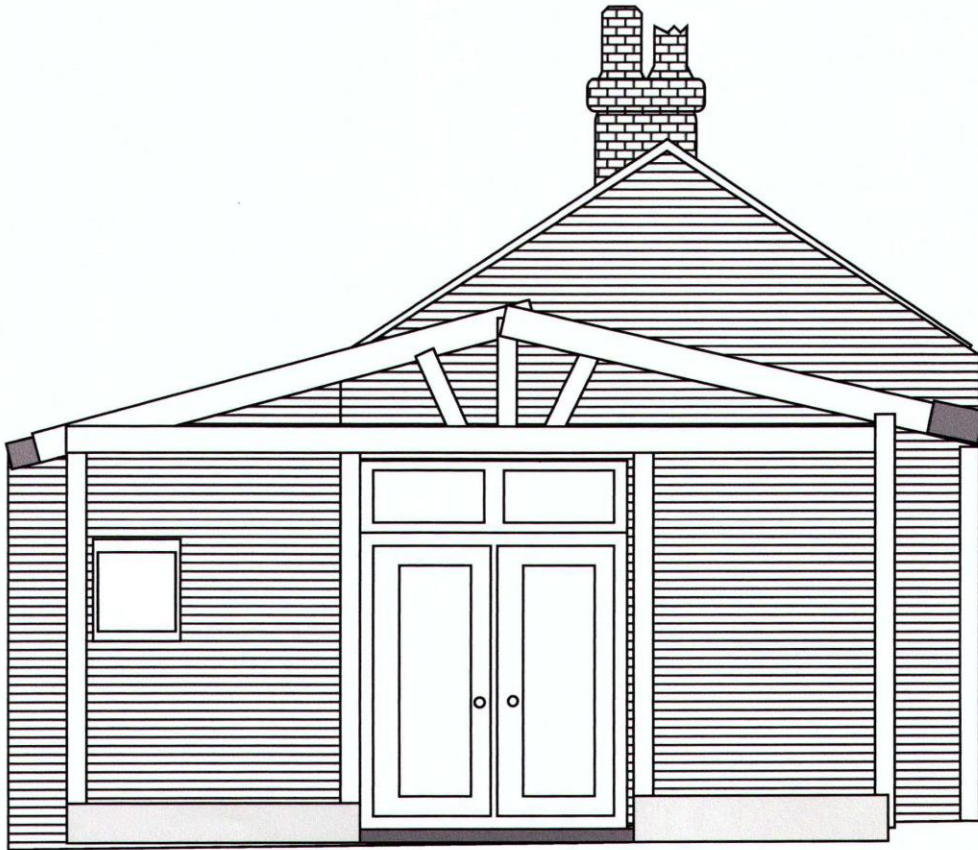


**Proposed Front Elevation with roof line and front gate  
1209 Payne Street Louisville, KY 40204**

RECEIVED  
APR 15 2019  
PLANNING &  
DESIGN SERVICES

19Variance1033





**Rear Elevation with new roof line  
1209 Payne Street Louisville, KY 40204**

**RECEIVED**  
APR 15 2019  
PLANNING &  
DESIGN SERVICES

*19 Variance 1033*

5. Site Photos



The front of the subject property.



The western side of the subject property.



The location of the proposed deck on the eastern side.



The location of the proposed roof change.