

Board of Zoning Adjustment
Staff Report
 November 15, 2021



Case No:	21-VARIANCE-0125
Project Name:	South Preston Street Variance
Location:	930 S. Preston St
Owner/Applicant:	Scott Bowling, Scouis, INC
Representative:	Greg Zimmerer, Milestone Design
Jurisdiction:	Louisville Metro
Council District:	4 – Jecorey Arthur
Case Manager:	Heather Pollock, Planner I

REQUESTS:

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

Location	Requirement	Request	Variance
Side Yard	10 ft.	1 ft.	9 ft.

CASE SUMMARY/BACKGROUND

The subject property is zoned M-2 Industrial and is in the Traditional Neighborhood Form District. It is on the north side of the 900 block of S. Preston St. in the Smoketown Jackson neighborhood. The site currently has off street parking and the applicant is proposing to construct a 4,430 sq. ft. building that will encroach into the required side yard setback.

STAFF FINDINGS

Staff finds that the requested 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.

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 Land Development Code table 5.2.2 to allow a principal structure to encroach into the side yard setback.

TECHNICAL REVIEW

This proposal has received preliminary approvals from Transportation Planning and KYTC and the MSD review is pending through the category 2B process.

INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

RELATED CASES

21-CAT2-0025: A category 2B plan for the proposed building.

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, because the proposed structure must be constructed to comply with all building codes, including fire codes; 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 property.

- (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 building matches similar placements of structures in the area.

- (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 subject property is small compared to other non-residentially used properties in the area. Additionally, it matches the pattern of building to the property line seen in other non-residential structures in the area.

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 not generally apply to land in the general vicinity or the same zone as the pattern of building to the property line is similar in 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 there no space on the subject property to shift the structure to meet the setback requirements. The applicant would have to reduce the size of their proposed structure to comply with setbacks.

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 has not started construction and is requesting the 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
10/29/2021	Hearing before BOZA	1 st tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 4
10/29/2021	Hearing before BOZA	Notice posted on property

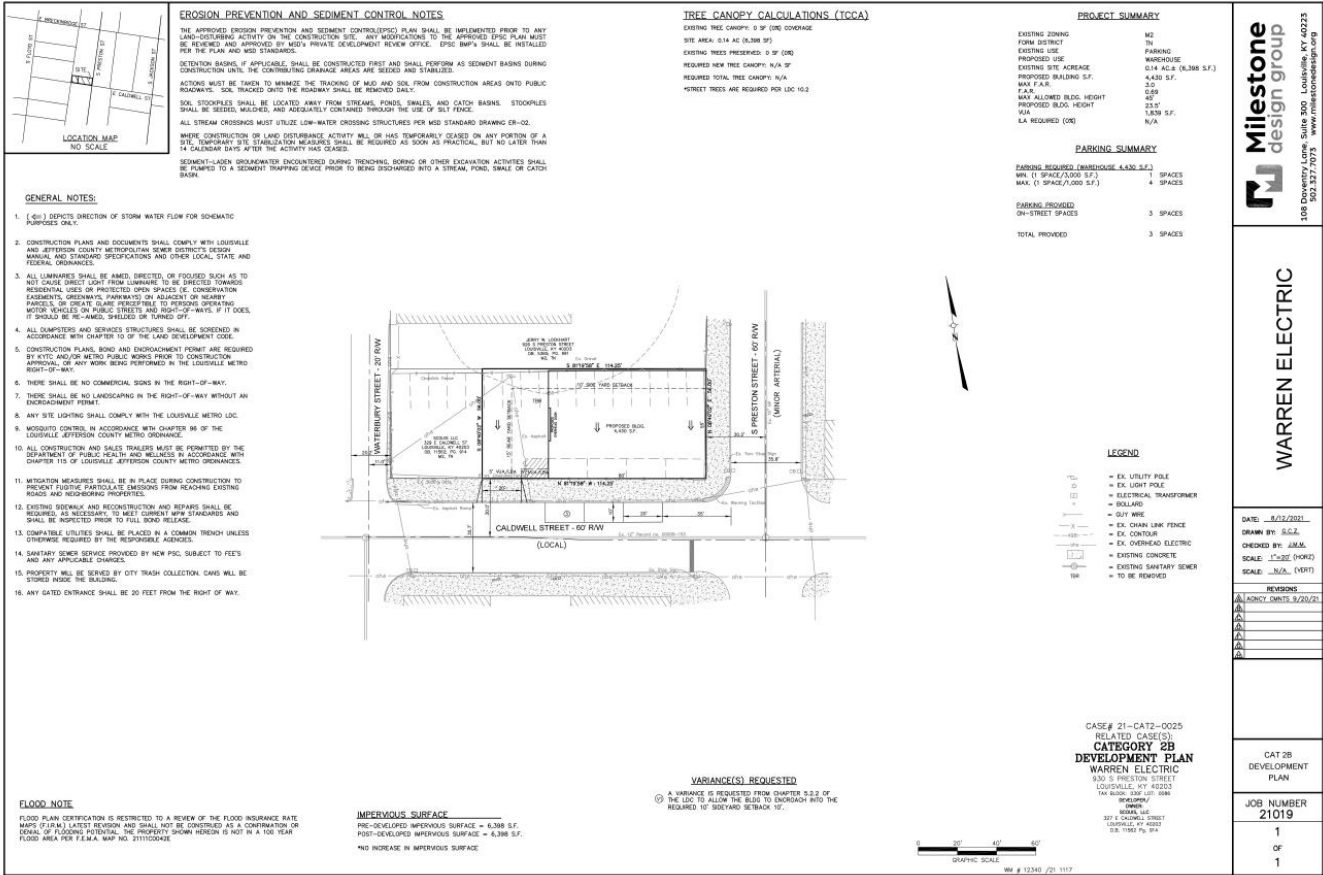
ATTACHMENTS

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

2. Aerial Photograph



3. Site Plan



4. Site Photos



Front of subject property.



View of subject property from intersection of S. Preston and E. Caldwell St.



View of subject property from E. Caldwell St.



Across E. Caldwell St.



Across S. Preston St.