

Board of Zoning Adjustment Staff Report

August 1, 2016



Case No:	16VARIANCE1029
Request:	Proposed deck to encroach into the minimum side yard setback.
Project Name:	108 East Burnett Avenue
Location:	108 East Burnett Avenue
Area:	.05510 acres
Owner:	Bruce Cohen
Applicant:	Bruce Cohen
Representative:	Bruce Cohen
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Ross Allen, Planner I

REQUEST

- Variance from the Land Development Code section 5.2.2 table 5.2.2 to allow a house and a proposed second story deck to encroach into the side yard setback.

Location	Requirement	Request	Variance
Side Yard Setback	3 feet	0 feet	3 feet

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is requesting a variance from the minimum side yard setback for a proposed second-story deck in the Old Louisville, TNZD. The deck will be located on the rear western half of the principal structure with dimensions of 9' 11" by 12' 11" and will have a 3' 5" tall wooden handrail and balusters. However, the home when constructed has a setback less than required by code resulting in the need for a three foot variance.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Residential Single Family	TNZD	Traditional Neighborhood
Proposed	Residential Single Family	TNZD	Traditional Neighborhood
Surrounding Properties			
North	Vacant Commercial Property	TNZD	Traditional Neighborhood
South	Residential Single Family	TNZD	Traditional Neighborhood
East	Residential Multi-Family/Residential Single Family	TNZD	Traditional Neighborhood
West	Residential Multi-Family/Residential Single Family	TNZD	Traditional Neighborhood

PREVIOUS CASES ON SITE

Certificate of Appropriateness (COA) 15COA1178 dated September 1, 2015

INTERESTED PARTY COMMENTS

No comments were received from concerned citizens.

APPLICABLE PLANS AND POLICIES

Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

- (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 since the proposed deck is being added to the rear of the principal structure which predates the current form district regulations. The Urban Design team has issued an approved Certificate of Appropriateness (COA) stating that the designs meet the applicable Design Guidelines. Furthermore, the home as situated on the parcel is not in close proximity to any principal structures nor accessory structures mitigating any adverse effects public health, safety, or welfare.

- (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 since many homes in the general vicinity have existing decks attached on the rear of the principal structures.

- (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 since the home as situated on the parcel is not in close proximity to any principal structures nor accessory structures on adjacent properties.

- (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 since the home would have been constructed in 1900 predating zoning regulations. However, the addition of the second story rear deck is within design guidelines of the existing structure and poses no adverse impact upon adjacent properties.

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 generally apply to land in the general vicinity or the same zone since many homes in the Old Louisville Historic Preservation district (TNZD) are in close proximity to other structures which predate both zoning and form district regulations as required by the LDC.

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 since the applicant has asked and received a COA and requesting the variance is an attempt to come into compliance with the requirements set forth by the LDC.

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 applicant has not undertaken any construction related to the proposed decks to date.

TECHNICAL REVIEW

- No technical review undertaken.

STAFF CONCLUSIONS

The variance request appears to be justified and meets the standard of review. Based upon the information in the staff report, 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 5.2.2 table 5.2.2 to allowing the proposed decks and principal structure to encroach into 3 foot side yard setback.

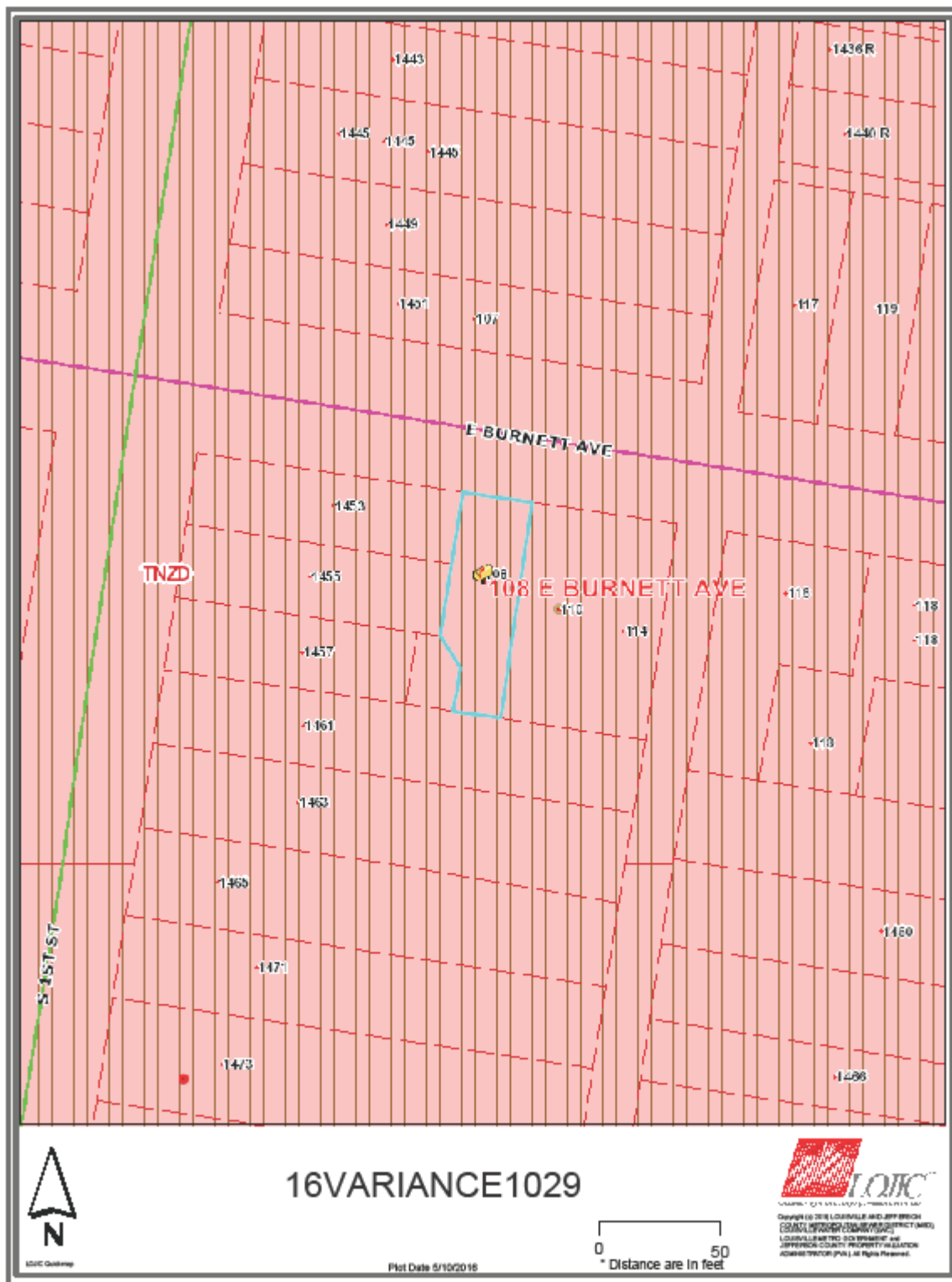
NOTIFICATION

Date	Purpose of Notice	Recipients
June 3, 2016	Hearing before BOZA	1 st tier adjoining property owners Subscribers of Council District 6 Notification of Development Proposals
June 17, 2016	Sign Posting for BOZA	Sign Posting on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2.

