

Board of Zoning Adjustment
Staff Report
 September 11, 2017



Case No:	17VARIANCE1052
Project Name:	2400 Top Hill Road Addition
Location:	2400 Top Hill Road
Owner(s):	Karen H Wunderlin Trust
Applicant:	Mary Herd Jackson
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Dante St. Germain, Planner I

REQUEST

- **Variance** from Land Development Code table 5.3.1 to allow a structure to encroach into the required street side yard setback.

Location	Requirement	Request	Variance
Street Side Yard	25 ft.	4 ft.	21 ft.

CASE SUMMARY/BACKGROUND

The subject property is lot 16 of the Eastleigh subdivision, recorded in 1908. It contains a 1 ½ story single-family residence, onto which the applicant proposes building a new 1 ½ story addition. The addition is to extend to the rear of the existing structure, and is proposed to encroach 21 feet into the required street side yard setback along the Cross Hill Road frontage, being 4 feet from the property line at its point of greatest encroachment. The addition is proposed to be used as a master bedroom suite.

On October 6, 2003, Board of Zoning Adjustment approved a variance under docket number B-136-03 for an addition to the principal structure to be located 13 feet from the street side property line.

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 table 5.3.1 to allow a structure to encroach into the required street side yard setback.

TECHNICAL REVIEW

- No technical review was undertaken.

INTERESTED PARTY COMMENTS

One neighbor contacted staff to object to the addition for safety reasons, as the addition is proposed on an already-hazardous blind curve. The neighbor also feels that the addition will be out of character for the neighborhood. Please see Attachment 5.

Another neighbor contacted staff by telephone requesting general information about the variance request and the variance process.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM TABLE 5.3.1

- (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 encroachment will not obscure sight lines at the corner.

- (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 will be constructed to match the existing structure.

- (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 proposed addition will not encroach into the sight triangle at the corner.

- (d) The requested variance will allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will allow an unreasonable circumvention of the zoning regulations as the addition could be mirrored so as to encroach less into the street side yard setback.

ADDITIONAL CONSIDERATIONS:

1. The requested variance does not 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 not generally apply to land in the general vicinity or the same zone as the property is roughly rectangular and has the same topographical constraints as the rest of the lots along Top Hill Road.

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 by preventing the applicant from adding a master bedroom suite onto the existing residence.

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

Date	Purpose of Notice	Recipients
08/25/2017	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 9
08/25/2017	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

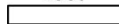
1. Zoning Map



2. Aerial Photograph



2400 Top Hill Road
feet

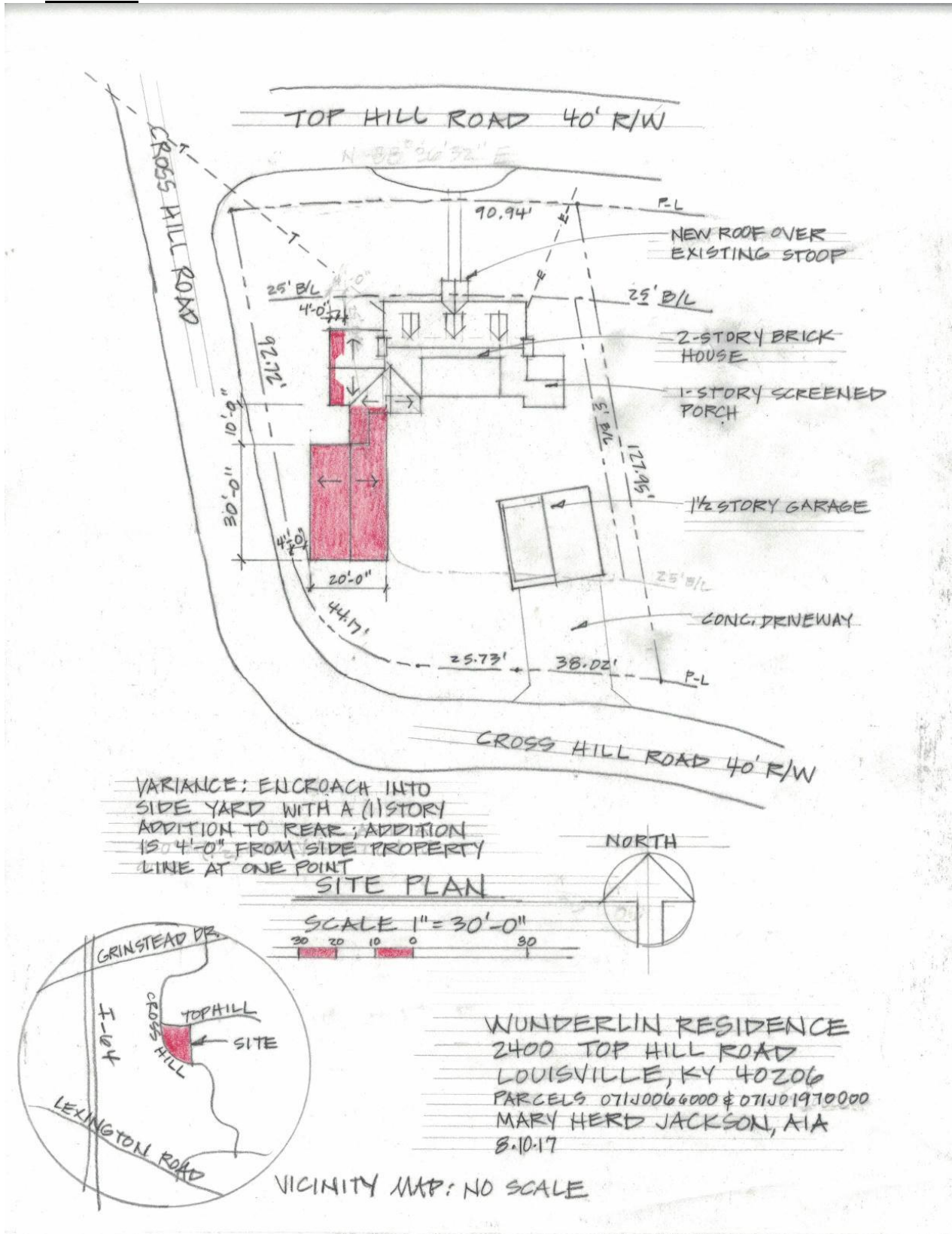


50
Map Created: 9/1/2017



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3. Site Plan



4. Site Photos



The front of the subject property.



The road to the right of the subject property.



The residence to the left of the subject property.



The property across Top Hill Road.



The area where the addition is to be placed. The gazebo is proposed to be removed.

5. **Citizen Comment**

St. Germain, Dante

From: goganonhill@aol.com
Sent: Friday, September 01, 2017 12:40 PM
To: St. Germain, Dante
Subject: Planning & Design

Case # 17Variance1052
2400 Top Hill Rd

I, Judith E Gogan have reviewed the submitted drawings and variance request for the above listed property. I live on contiguous property at 2332 Cross Hill Rd. This variance is at an existing blind curve on Cross Hill Rd and I appeal request for safety concerns. This area is already a contentious issue. In addition, I feel that the eclectic and historically nature of this neighborhood should be maintained for all the residents that have dedicated years of devotion and concern.

I am handicapped and 82 years old and not able to attend a hearing. If I need to send a representative or my letter should be certified, please advise. I very much appreciate your assistance and felt that you were very much aware of the scope of work and could relate to my issues.

Judith E Gogan
502.899.1899