

**Board of Zoning Adjustment**  
**Staff Report**  
 October 21, 2019



<b>Case No:</b>	19-VARIANCE-0036
<b>Project Name:</b>	Mulberry Street Variance
<b>Location:</b>	842 Mulberry Street
<b>Owner:</b>	Kimberly Curran
<b>Applicant:</b>	Anne Del Prince – Del Prince Designs, LLC
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	4 – Barbara Sexton Smith
<b>Case Manager:</b>	Zach Schwager, Planner I

**REQUEST**

- **Variations**
  1. from Land Development Code table 5.2.2 to allow a structure to encroach into the required side yard setback
  2. from Land Development Code table 5.2.2 to allow a structure to encroach into the required street side yard setback

Location	Requirement	Request	Variance
<b>Side Yard</b>	3 ft.	9 in.	2 ft. 3 in.
<b>Street Side Yard</b>	3 ft.	0 ft.	3ft.

**CASE SUMMARY**

The subject property is located in the Schnitzelburg neighborhood and currently contains a 1 ½-story multi-use structure that encroaches into the required side and street side yard setbacks. The applicant proposes to construct a new 89 sq. ft. addition on the rear of the existing structure. The roof of the addition will be connected to the existing roof structures over the deck and the secondary rear entrance. This will require a new roof for the entire rear portion of the structure.

**STAFF FINDING**

Staff finds that the requested variations 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 for granting variations established in the Land Development Code from table 5.2.2 to allow a structure to encroach into the required side and street side yard setbacks.

**RELATED CASES**

17ZONE1040 – Rezoning from R-6 to OR-1.

**Conditions of Approval:**

#1) The applicant shall submit a Revised District Development Plan to Planning & Design Services and receive approval prior to obtaining building permits.

#2) Based upon the survey submitted on August 12, 2019, the side and street side property lines 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.

**TECHNICAL REVIEW**

- No technical review was undertaken.

**INTERESTED PARTY COMMENTS**

No interested party comments were received.

**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 addition and new roof structure are similar to many 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 as the structure will be constructed to comply with 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 setbacks will be the same as they are currently.

**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 generally apply to land in the general vicinity or the same zone because the lot is regular in shape and comparable in area to other lots in the same vicinity.

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 may create an unnecessary hardship on the applicant by preventing them from constructing a new minor addition.

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.

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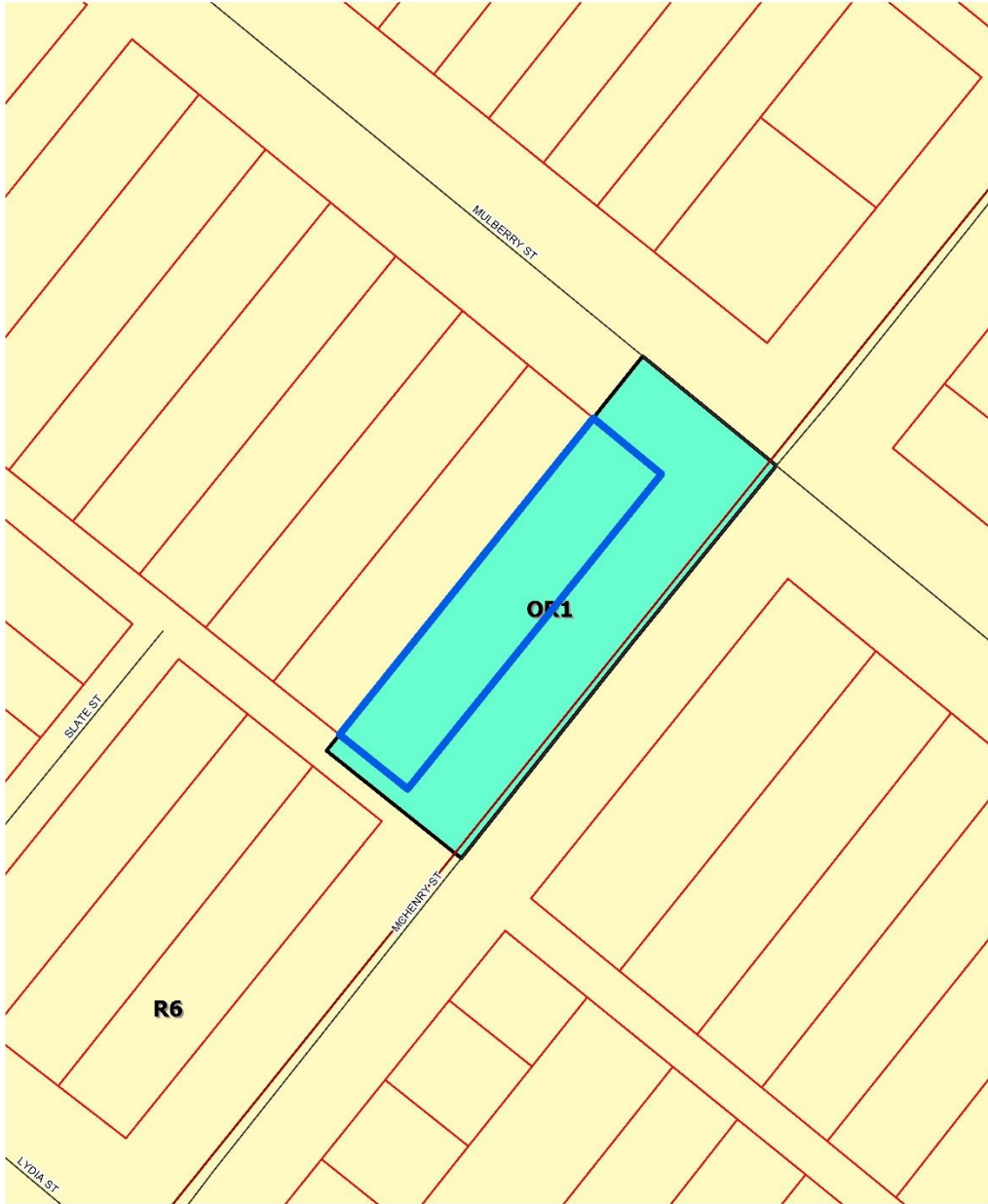
**NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>10/2/2019</b>	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 4
<b>10/4/2019</b>	Hearing before BOZA	Notice posted on property

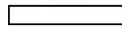
**ATTACHMENTS**

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

1. Zoning Map



842 Mulberry Street  
feet



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Map Created: 10/16/2019

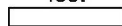


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2. Aerial Photograph



842 Mulberry Street  
feet

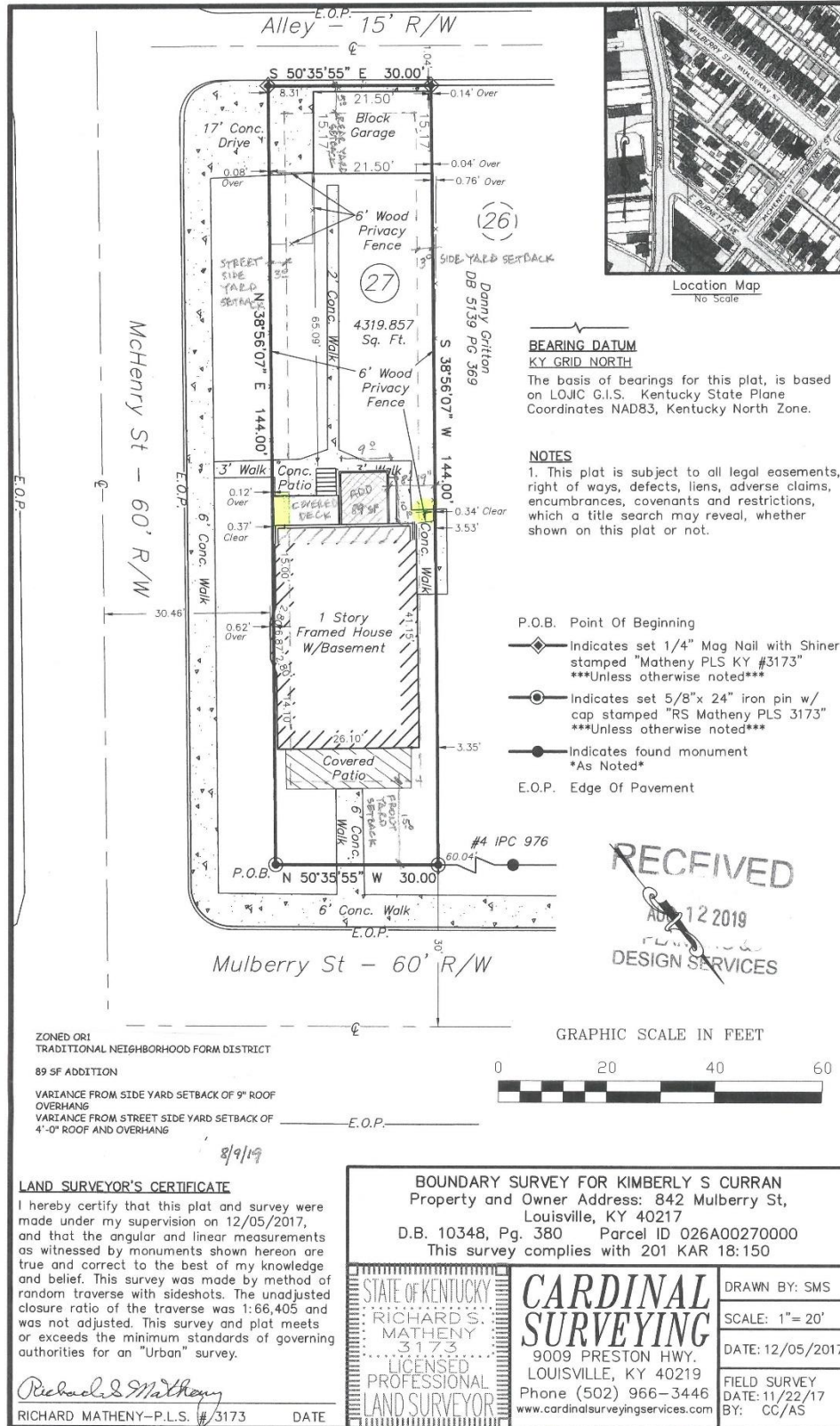


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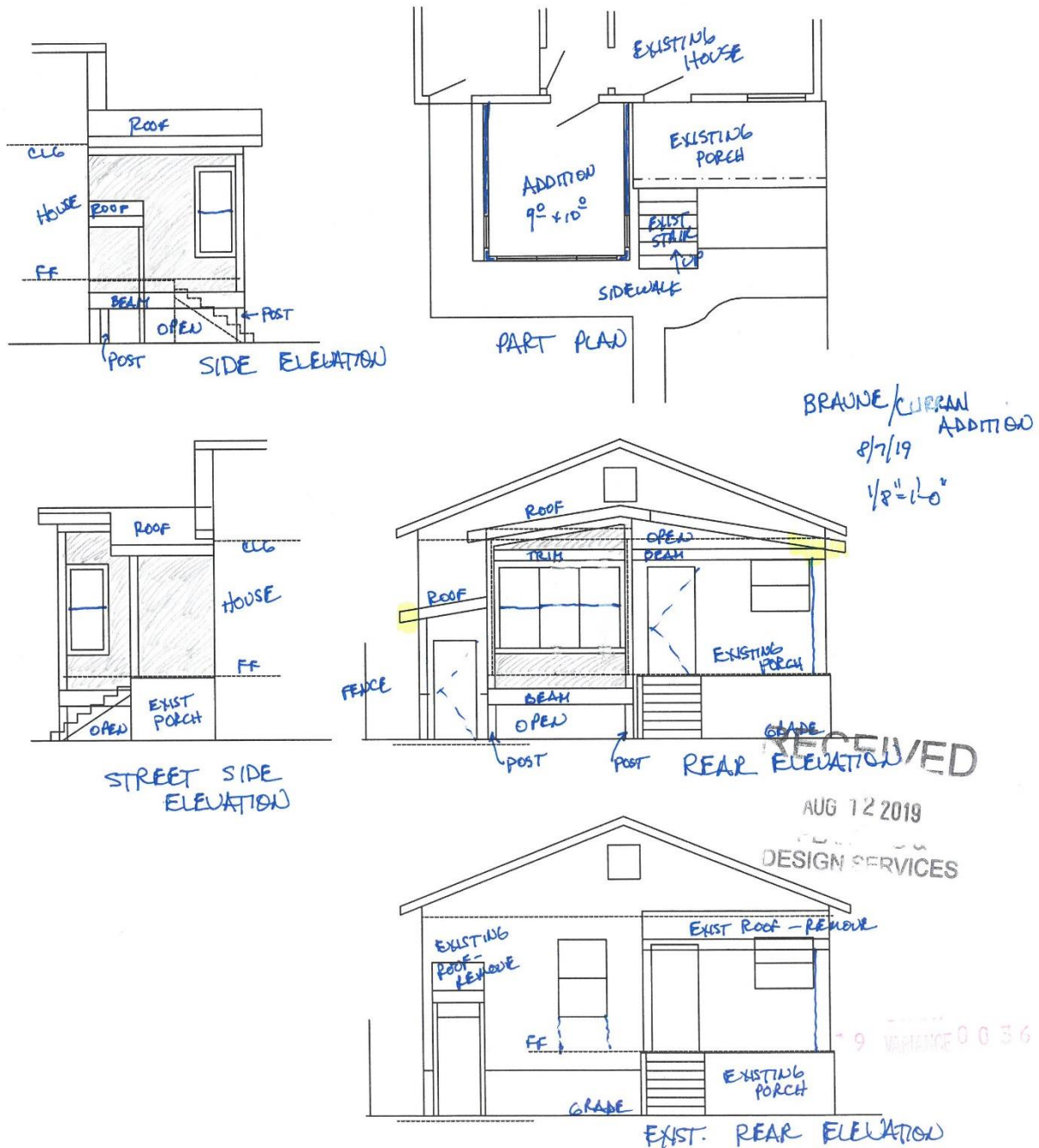


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3. **Site Plan**



4. Elevations





5. Site Photos



The front of the subject property.



The property across Mulberry Street.



Variance area.