

Board of Zoning Adjustment Staff Report

May 15, 2023



Case No:	23-VARIANCE-0047
Project Name:	Mary Avenue Variance
Location:	1049 Mary Avenue
Owner:	KMCM Holdings, LLC
Applicant:	Jason Thomas
Jurisdiction:	Louisville Metro
Council District:	6 – Phillip Baker
Case Manager:	Molly Clark, Planner II

REQUESTS

- **Variance** from Land Development Code section 5.2.2 to allow a second story to encroach into the required 3 ft side yard setback.

Location	Requirement	Request	Variance
West Side Yard Setback	2.5 ft.	0 ft.	2.5 ft.
East Side Yard Setback	2.5 ft.	1.5 ft.	1 ft.

CASE SUMMARY/BACKGROUND

The subject site is .0872 acres and is zoned R-6 multi-family in the Traditional Neighborhood Form District. The subject site currently has a 1 story single family home. The applicant is proposing to construct a 595 SF second story addition. The proposed second story will encroach into the side yard setback along both property lines.

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.

The applicant submitted signatures from adjacent property owners and is therefore eligible for a non-hearing variance pursuant to BOZA Bylaws and Policies.

STAFF FINDING

Staff finds that the requested side yard variance is adequately justified and meet the all 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 a variance established in the Land Development Code.

TECHNICAL REVIEW

There are no outstanding technical issues with this request.

INTERESTED PARTY COMMENTS

Applicant submitted an affidavit of non-public hearing with the owner signatures of all 1st tier adjoining property owners, (attached to this agenda item).

RELATED CASES

None.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.2.2 to allow a second story to encroach into the required 2.5 ft setbacks:

- (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 structure must be constructed to comply with all applicable building codes and the Land Development Code, except where relief is requested. Staff is not concerned with construction and maintenance encroachment as adjoining property owners have signed the non-public hearing affidavit.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The proposed addition will not alter the essential character of the general vicinity as the existing home and surrounding homes are built to similar setbacks from side property lines.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The addition will not cause a hazard or nuisance to the public as it is required to meet all applicable requirements of the building code.

- (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 property is only 25 ft. in width and the addition is consistent with the existing structure and to surrounding structures in the neighborhood.

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 arise from special circumstances which do generally apply to land in the general vicinity or the same zone because this property is located in a subdivision that was created and built before zoning regulations. The lot is the same size and shape in comparison to 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 the subject site is a narrow lot and the applicant is restricted by the narrow lot width. The applicant is also constructing the addition over the existing 1 story building footprint and bringing the addition away from the side yard may cause issues in the construction of the structure due to the location of existing load bearing walls.

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 has not begun construction.

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.

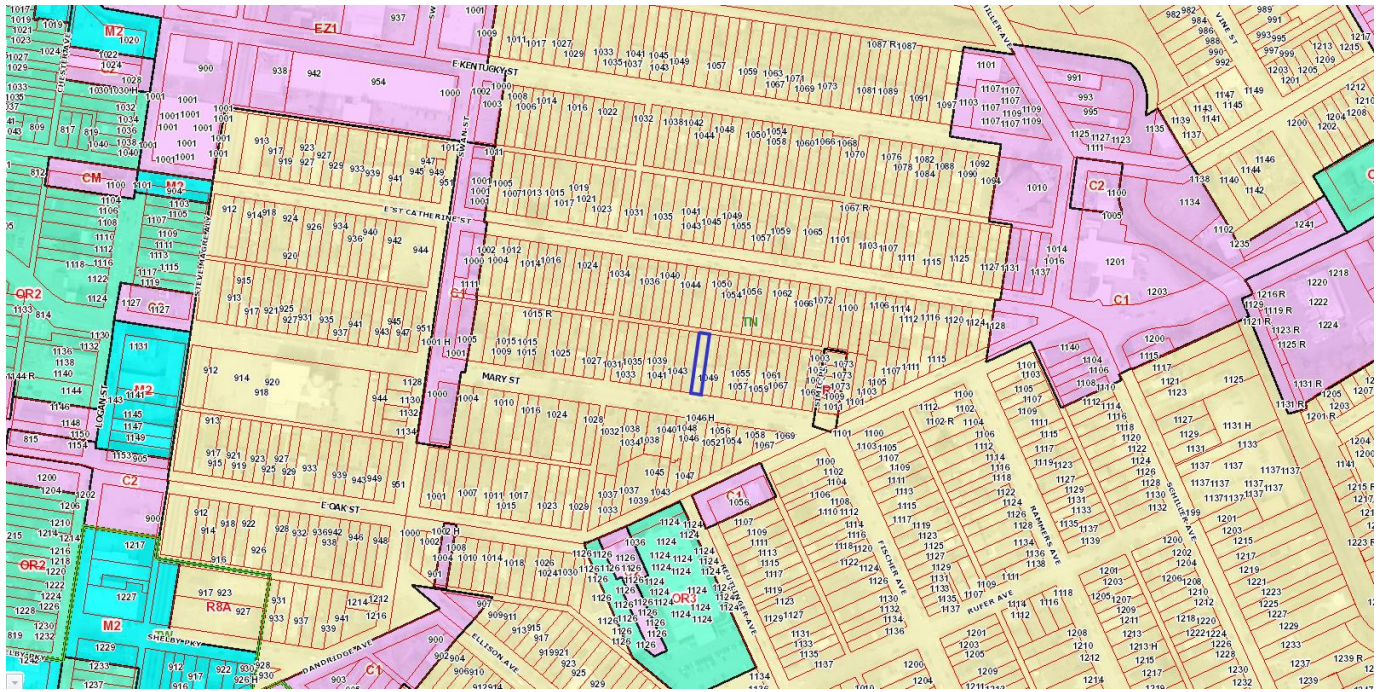
NOTIFICATION

Date	Purpose of Notice	Recipients
05/08/23	Non-Public Hearing Affidavit submitted; no notification required.	

ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph

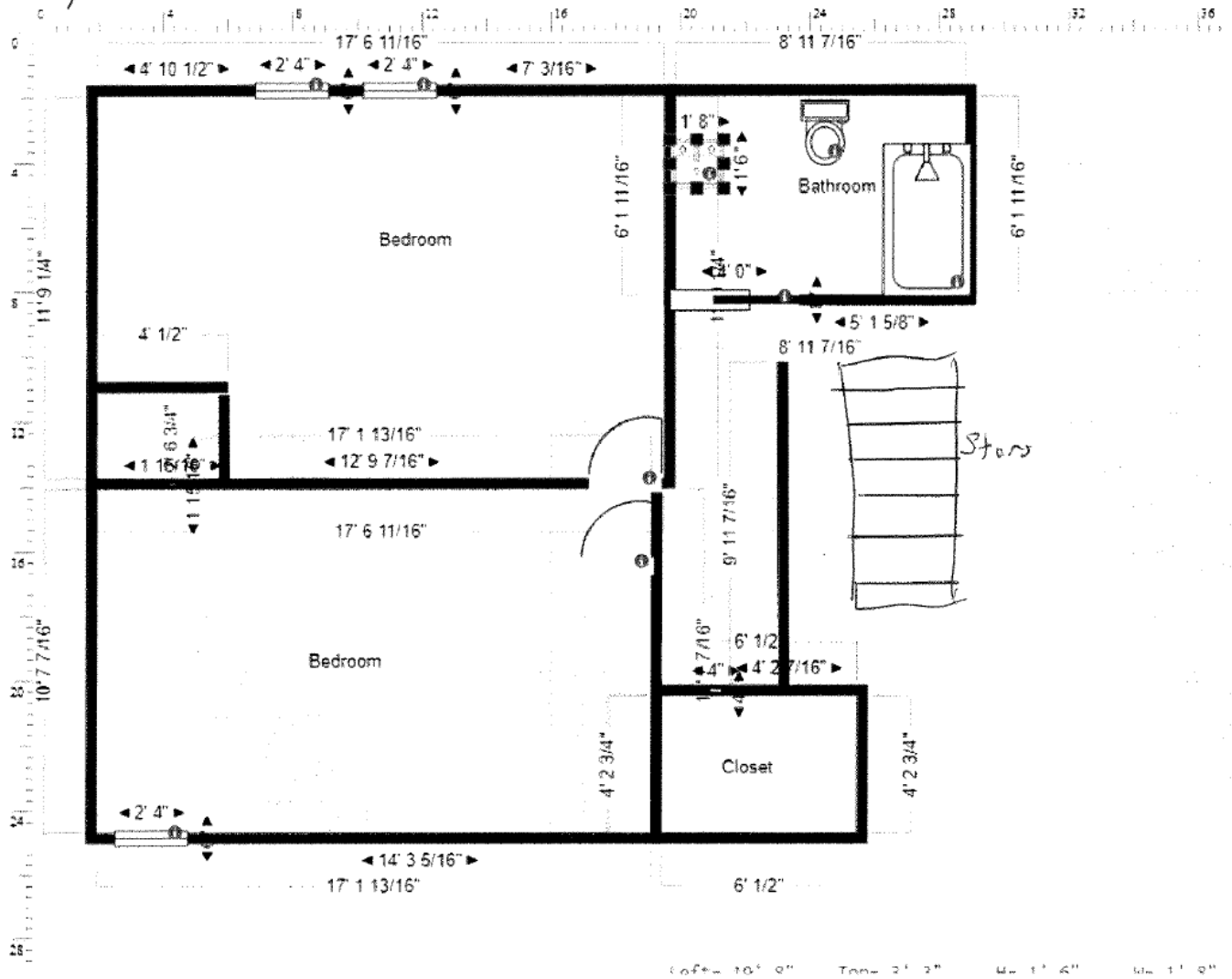


3. Site Plan

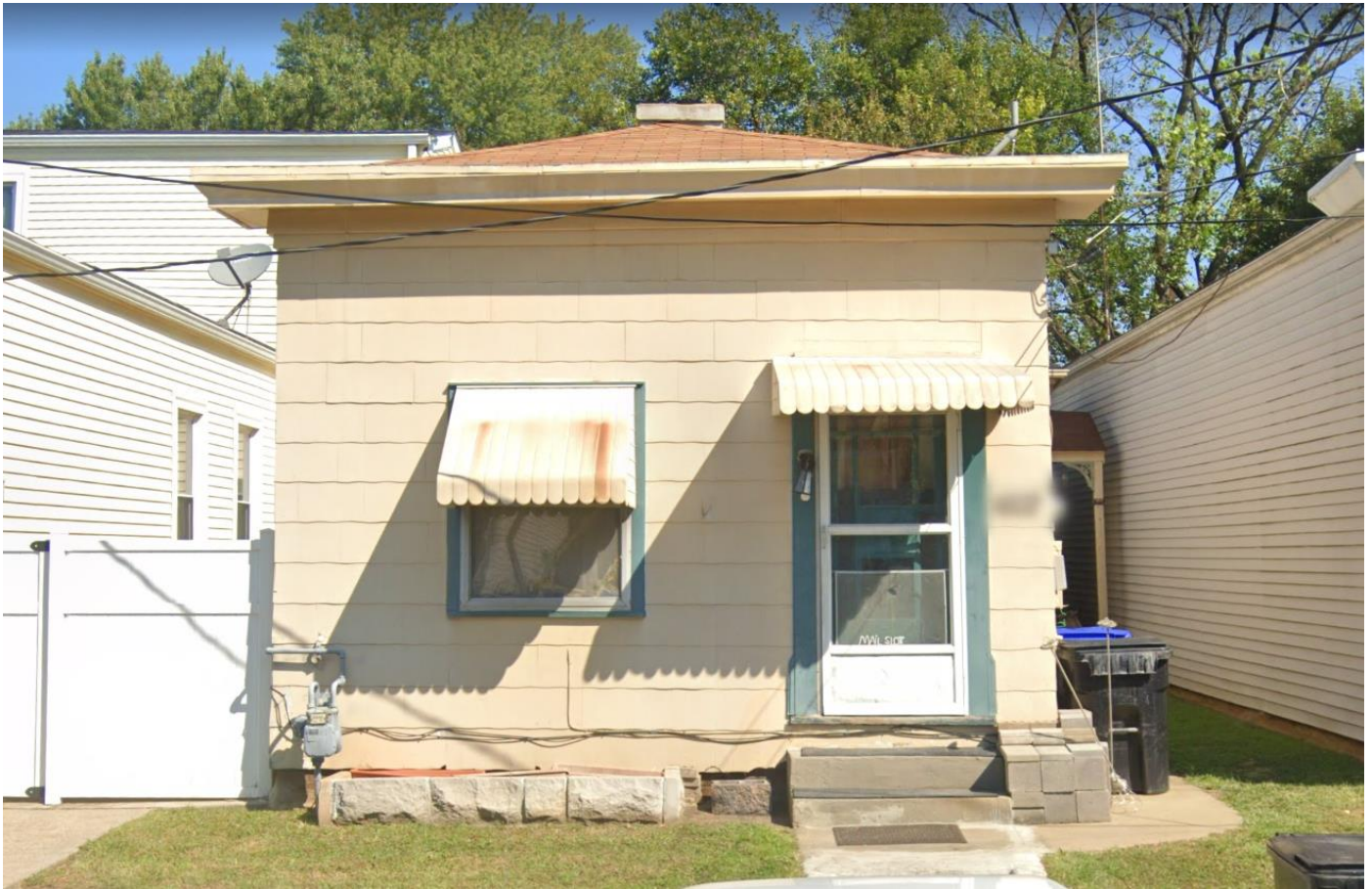


4. **Floor Plan**

Proposed → 2nd Floor Addition



5. **Site Photos**



Front of Property, Google 2022.



Houses to the right of subject property, Google 2022.



Houses to the left of subject property, Google 2022.



Across the street, Google 2022.