

Board of Zoning Adjustment

Staff Report

July 24, 2023



Case No:	22-VARIANCE-0119
Project Name:	Rear Mulberry Street Variance
Location:	917 R. Mulberry Street
Owner/Applicant:	MBS Remodeling LLC
Representative:	Jamie Barnes
Jurisdiction:	Louisville Metro
Council District:	15- Jennifer Chappell
Case Manager:	Amy Brooks, Planner I

REQUEST (S):

Variance from the Land Development Code section 5.1.12.A.2.a to allow a principal structure to exceed the established front yard setback.

Variance from Land Development Code section 5.4.1.D.2 to allow a private yard area to be less than the required 20% of the area of the lot.

Location	Requirement	Request	Variance
Infill Maximum Front Yard Setback	7 ft.	8 ft.	1 ft.
Private Yard Area	529 sq. ft	148 sq. ft	381 sq. ft.

CASE SUMMARY/BACKGROUND

The subject site is zoned R-6 Multi-Family Residential in the Traditional Neighborhood Form District. The property is located on an alleyway between Mulberry and Ash Streets in the Schnitzelburg neighborhood. The applicant is proposing to build a two-story single-family home that will measure 24'4" feet in height. The structure will encroach into the existing front yard setback as determined by infill and provide limited private yard area.

Although this site is located on a rear alleyway, the Planning Director has determined that this site is subject to infill requirements. As such, the infill front yard setback is determined by the range of the front yard setbacks of the two nearest lots containing principal structures within the same block face. This range has been calculated to be 1-7 feet. Therefore, the maximum front yard setback allowed would be 7.0 feet.

This case was heard by the Board of Zoning Adjustments on February 20, 2023. The case was continued to allow the applicant time to revise their plans based on neighborhood concerns brought forward during the public hearing.

STAFF FINDINGS

Staff finds that the infill maximum Front Yard Setback variance meets the standards of review of (b), (c), and (d). However, staff is concerned the request does not meet standard (a) because the narrow alley on which the structure is located has limited room for vehicular maneuverability.

Staff finds that Private Yard Area variance is adequately justified based on the staff's analysis contained in 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.

TECHNICAL REVIEW

No outstanding technical comments.

INTERESTED PARTY COMMENTS

No formal comments were received.

RELATED CASES:

None

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.1.12.A.2.a (Infill maximum Front Yard Setback)

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: Staff is concerned that the location of the principal structure may cause a potential safety issue to the public. The applicant is proposing a driveway on the site that will allow for parking beneath the portico shown on the site plan attached to this staff report. However, the adjacent alleyway measures approximately 15 feet, and may not provide sufficient room for vehicular maneuverability.

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

STAFF: The structure will not alter the essential character of the general vicinity as there are other structures on this alleyway that exceed the 8 ft. setback that is required by infill standards.

- (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 there are other structures on the alleyway that serves Mulberry and Ash streets that appear to have approximately the same setback from the edge of pavement.

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 the land in the general vicinity or the same zone as the lot is not similar in size and shape to the surrounding properties. This is a rear lot with limited size that fronts an alleyway.

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 structure cannot be moved to become more compliant to the code because of an existing retaining wall at the front of the property.

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 because construction has not begun, and the applicant is applying for a variance.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.4.1.D.2 (Private Yard Area)

- (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, including fire codes, and the Land Development Code, except where relief is requested.

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

STAFF: The proposed private yard area reduction will not alter the essential character of the general vicinity as many properties in the area seemingly have reduced private yard areas to accommodate for the more compacted urban lots that are common in the Schnitzelburg neighborhood.

- (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 there is not significant open space between the primary structure area and accessory use area that could be counted towards the private yard calculation.

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 the land in the general vicinity or the same zone as the lot is similar in size and shape to the surrounding properties as this is a substandard rear lot.

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 is not sufficient open space between the primary structure area and the accessory use area to allow for the required private yard area.

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. The applicant has not commenced building and has applied for a 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
7/10/2023	Hearing before BOZA	1 st tier adjoining properties
7/10/2023		Registered Neighborhood Groups in Council District 15
7/12/2023	Hearing before BOZA	Notice posted on property

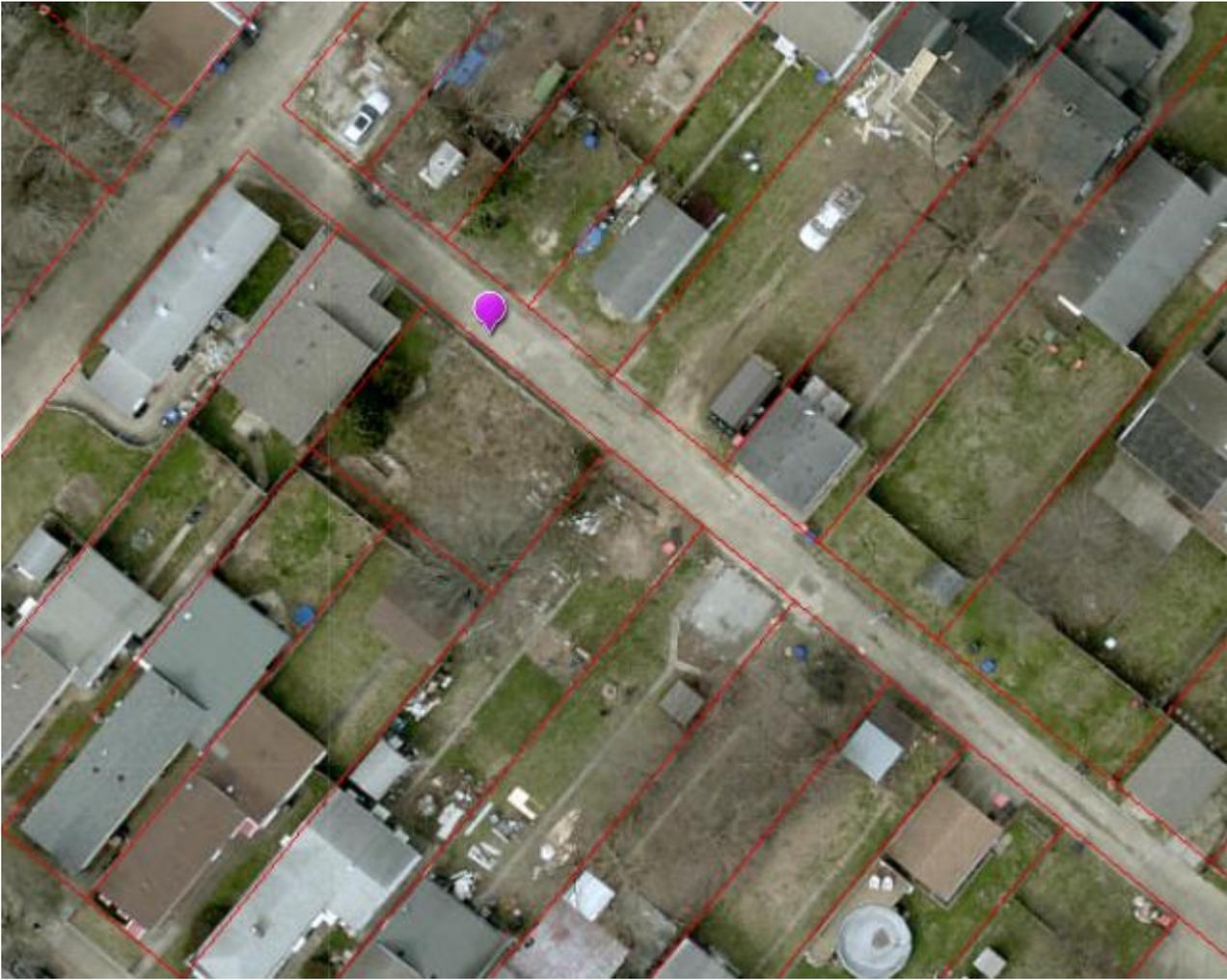
ATTACHMENTS

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

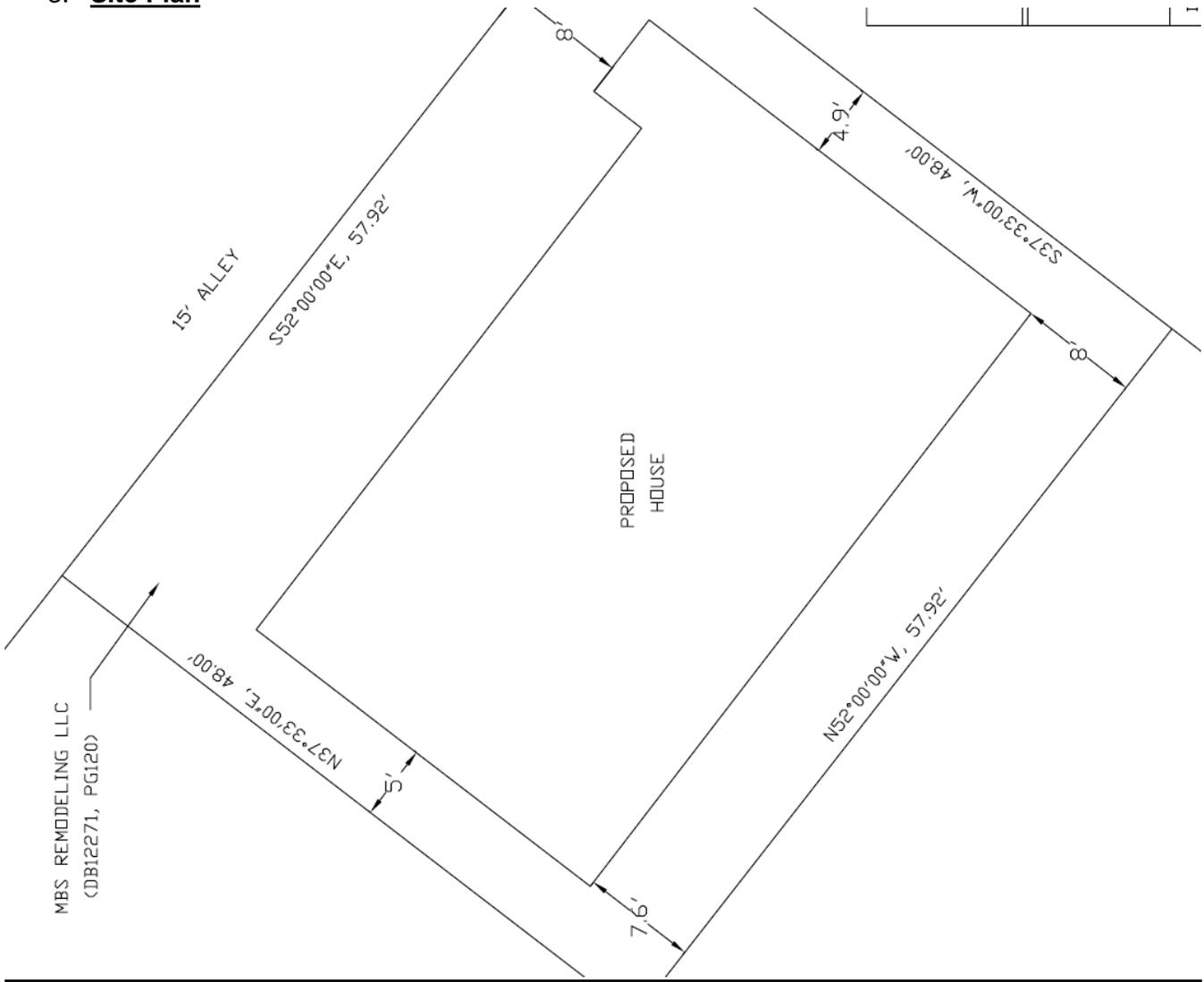
1. **Zoning Map**

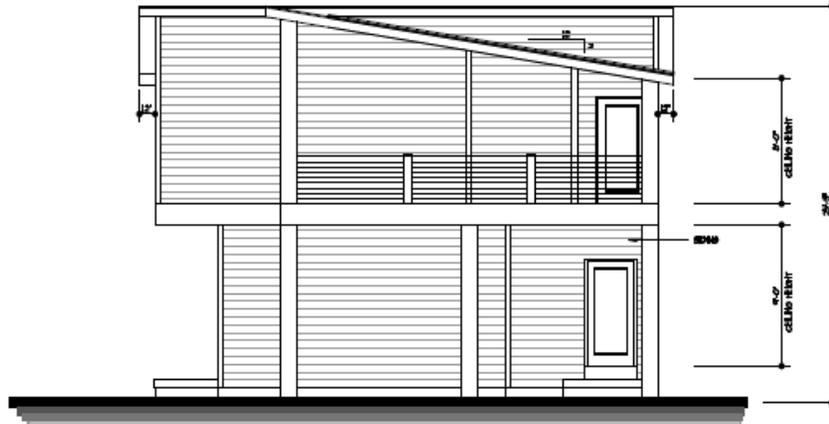


2. Aerial Photograph



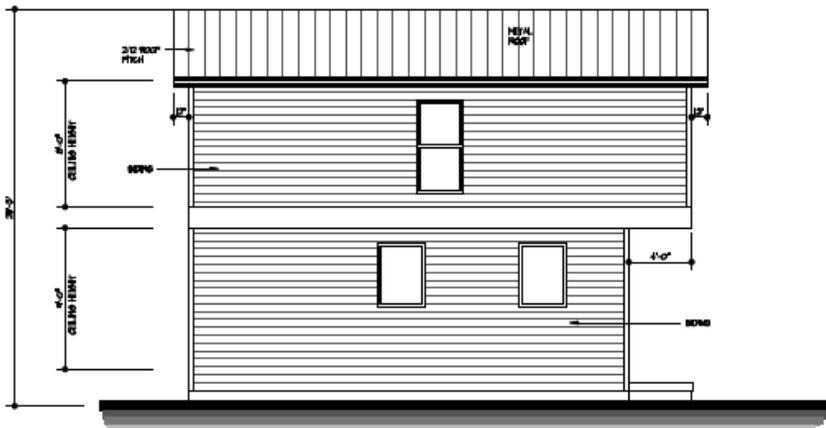
3. Site Plan





RIGHT SIDE

SCALE: 1/4"=1'-0"



LEFT SIDE

SCALE: 1/4"=1'-0"

5. Site Photos



Front of subject property.



Right of the subject property.



Across the alley way



Left of the subject property.



View of alleyway.



View of variance areas from alleyway.