

Board of Zoning Adjustment

Staff Report

September 25, 2023



Case No:	23-VARIANCE-0118
Project Name:	Preston Street Variance
Location:	1331 S. Preston Street
Applicant/Owner:	Joy Collins
Jurisdiction:	Louisville Metro
Council District:	6 – Phillip Baker
Case Manager:	Jeremy Chesler, Planner I

REQUESTS:

- **Variance** from Land Development Code, Section 5.2.2.C, Table 5.2.2 to reduce the side yard setback from 3’ to 0’
- **Variance** from Land Development Code, Section 5.2.2.C, Table 5.2.2 reduce the side yard setback from 3’ to 2’

Location	Requirement	Request	Variance
South Side Yard Setback	3 ft.	0 ft.	3 ft.
North Side Yard Setback	3 ft.	2 ft.	1 ft.

CASE SUMMARY

The subject property is in the Traditional Neighborhood Form District. It is located on the eastern side of South Preston Street between Marret Avenue and Woodbine Street. The subject property is currently developed with a one-story, single-family home. The applicant is proposing to construct a second-floor addition within the original footprint of the house. Since the existing structure encroaches into the side yard setbacks, the proposed addition has triggered the need for a dimensional variance.

STAFF FINDINGS

Staff finds that the requested variances have been adequately justified for approval based on staff’s analysis contained in the standard of review.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCES

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

STAFF: The requested variances will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all applicable building codes and will not impede the safe movement of pedestrians or motorists.

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

STAFF: The proposed building addition will not alter the essential, visual character of the general vicinity as the addition will be built on the footprint of the existing structure and will not increase the current encroachment into the side yard setback. There are several two-story residential structures in the immediate vicinity.

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

STAFF: The requested variances will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes. The property owner also owns the adjoining property at 1333 S Preston Street, where the 0' setback will be located so there is less concern about needing to cross onto someone else's property during construction.

- (d) The requested variances 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 homes within the surrounding blocks that contain second story additions that encroach into the current required side yard setbacks. The proposed addition will not increase the amount of encroachment that exists currently.

ADDITIONAL CONSIDERATIONS:

1. The requested variances arise from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variances arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the existing structure encroaches into the required side yard setbacks. There are other homes in the general vicinity that have been granted a variance for the construction of a second story addition within the footprint of an existing structure.

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 because the applicant would not be able to use the existing structure as a foundation for the second story addition.

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 as the applicant has not yet started construction and is requesting appropriate relief.

REQUIRED ACTIONS

- **APPROVE** or **DENY** the **Variance** from Land Development Code, Section 5.2.2.C, Table 5.2.2 to reduce the side yard setback from 3’ to 0’
- **APPROVE** or **DENY** the **Variance** from Land Development Code, Section 5.2.2.C, Table 5.2.2 to reduce the side yard setback from 3’ to 2’

NOTIFICATION

Date	Purpose of Notice	Recipients
09/11/2023	Hearing before BOZA	1 st tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 6
09/12/2023	Hearing before BOZA	Notice posted on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

