

**Board of Zoning Adjustment
Staff Report**
August 29, 2016



Case No:	16VARIANCE1061
Request:	To allow proposed screened in rear porch to encroach into the side yard setback.
Project Name:	186 North Bellaire Avenue Variance
Location:	186 North Bellaire Avenue
Area:	.07500 acres
Owner:	James Bruggers
Applicant:	Kathey Matheny – Cardinal Planning and Design Inc.
Representative:	Kathey Matheny – Cardinal Planning and Design Inc.
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Ross Allen, Planner I

REQUEST

- **Variance:** from the Land Development Code section 5.2.2, table 5.2.2 to allow the existing principal structure and new rear screened porch addition to encroach into the minimum side yard setback.

Location	Requirement	Request	Variance
Side Yard Setback	3 feet	1.21 feet	1.79 feet

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The subject property is an existing structure on a parcel located in an R-5A zoning district within a Traditional Neighborhood Form District in the Clifton Neighborhood. The applicant is proposing to construct a new addition screened porch to the rear of the principal structure. The applicant is requesting the variance as a result of addition being flush with the existing residence, requiring the side yard setback variance. The existing home was constructed in 1900 which predates zoning in Louisville Metro.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Residential Single Family	R-5A	Traditional Neighborhood
Proposed	Residential Single Family	R-5A	Traditional Neighborhood
Surrounding Properties			
North	Residential Single Family	R-5A	Traditional Neighborhood
South	Residential Single Family	R-5A	Traditional Neighborhood
East	Residential Single Family	R-5	Traditional Neighborhood
West	Residential Single Family	R-5A	Traditional Neighborhood

PREVIOUS CASES ON SITE

No other cases were associated with the subject site.

INTERESTED PARTY COMMENTS

No comments were received from concerned citizens.

APPLICABLE PLANS AND POLICIES

Land Development Code (July 2016)

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

- (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 since the property has been at a setback of approximately 1.49 feet – 1.29 feet since the original date of construction, 1900.

- (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 since many of the homes in the area sit if not on the property lines are within a 3 foot distance as required by LDC. The age of the housing predates zoning regulations.

- (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 since the rear addition is an extension of the existing principal structure and is not accessible by the public. The addition as assessed from the northern side property line would still have an approximate distance of 8 feet from the next closest structure.

- (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 since the residence predates the use of zoning regulations for Louisville Metro.

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 arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the existing setbacks as found on the subject site are less than required by LDC, 3 feet, and have been since 1900, predating the zoning regulations and form district setback requirements.

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 deprive the applicant of the reasonable use of the land which would require the rear addition to be recessed inward from the side property line by approximately 1.8 feet more than the current variance request. As a result, the addition would not be flush with the existing principal

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 since the applicant is requesting the variance prior to construction of the proposed rear porch, an enclosed (screened), of the residence.

TECHNICAL REVIEW

- None

STAFF CONCLUSIONS

The variance request appears to be adequately justified and meets the standard of review. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standard of review for granting variances as established in the Land Development Code from section 5.2.2 and table 5.2.2 to allow a proposed rear screened porch to encroach into the minimum side yard setback of 3 feet by approximately 1.79 feet.

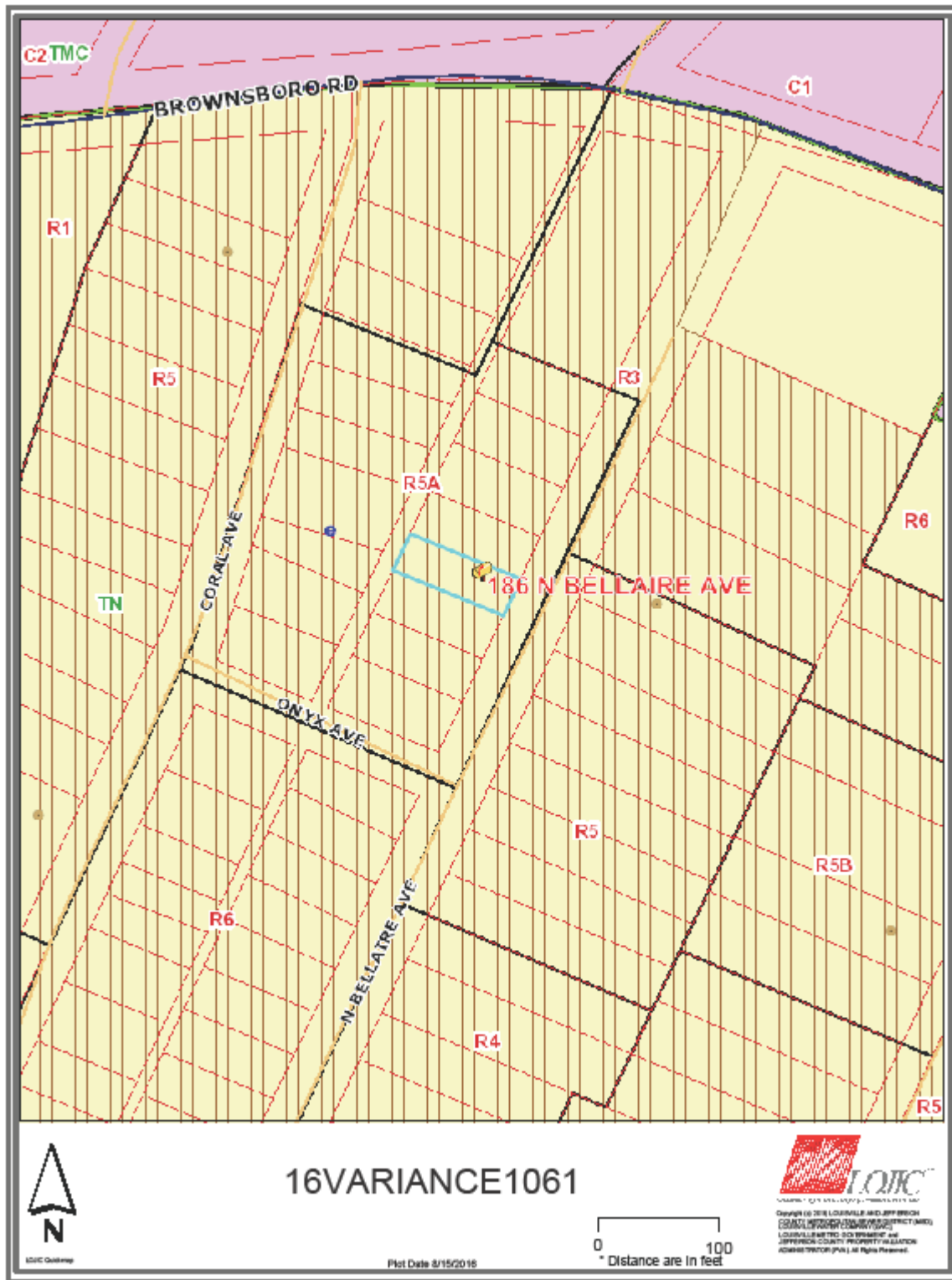
NOTIFICATION

Date	Purpose of Notice	Recipients
August 12, 2016	Non-public Hearing before BOZA	Not required - 1 st tier adjoining property owners Not required - Subscribers of Council District 19 Notification of Development Proposals

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

