

# Board of Zoning Adjustment Staff Report

April 3, 2017



<b>Case No:</b>	17VARIANCE1014
<b>Request:</b>	Variance from the required 30' street side yard
<b>Project Name:</b>	2107 Twin Hill Road
<b>Location:</b>	2107 Twin Hill Road
<b>Area:</b>	.6011 acres
<b>Owner:</b>	Phyllis A Fetter Living Trust
<b>Applicant:</b>	Phyllis Fetter
<b>Representative:</b>	Jon Baker
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	7 – Angela Leet
<b>Case Manager:</b>	Dante St. Germain, Planner I

## REQUEST

- Variance from Land Development Code Table 5.3.1 for a primary structure to encroach into the required street side yard.

Location	Requirement	Request	Variance
Street Side Yard Setback	30 ft.	25.29 ft.	4.71 ft.

## CASE SUMMARY/BACKGROUND/SITE CONTEXT

The subject property contains a 5,935 square foot 1 ½ story residential home, which was built in 2005. The property is Lot 78 of the Riverwood Section 2 subdivision, recorded in 1964 with a 30' build limit line along Twin Hill Road. The home was constructed over the build limit line and encroaching into the street side yard setback by 4.71 feet. This encroachment was discovered when a survey was performed. The applicant requests a variance from Land Development Code Table 5.3.1 – Dimensional Standards: Residential Development to allow the encroachment.

## LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Single Family Residential	R-4	Neighborhood
<b>Proposed</b>	Single Family Residential	R-4	Neighborhood
<b>Surrounding Properties</b>			
<b>North</b>	Single-Family Residential	R-4	Neighborhood
<b>South</b>	Single Family Residential	R-4	Neighborhood
<b>East</b>	Single Family Residential & Locust Grove Historic Home and Museum	R-4	Neighborhood
<b>West</b>	Single Family Residential	R-4	Neighborhood

## PREVIOUS CASES ON SITE

Plat Book 21 Page 72

Riverwood Section 2 Subdivision.

17MINORPLAT1031

Request to remove the building limit line due to encroachment.

## INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

## APPLICABLE PLANS AND POLICIES

Land Development Code

### STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM TABLE 5.3.1

- (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 condition has existed since 2005 and has caused no known adverse effects.

- (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 encroachment is minimal and was not found until a survey was conducted of the property.

- (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 condition has existed since 2005 and has caused no known hazards or nuisances.

- (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 encroachment was accidental.

### 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 not generally apply to land in the general vicinity or the same zone as the encroachment was accidental and all properties in the surrounding subdivision have the same build limit line and 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 create an unnecessary hardship on the applicant by requiring the applicant to pay for costly revisions or demolition of the house to correct the encroachment.

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 the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the house was built in 2005, after the 30' street side yard setback requirement was adopted.

### TECHNICAL REVIEW

- No technical review undertaken.

### STAFF CONCLUSIONS

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 standards for granting variances established in the Land Development Code from Table 5.3.1 allowing the street side yard setback to be less than 30 feet.

### NOTIFICATION

Date	Purpose of Notice	Recipients
03-17-2017	Public Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Subscribers of Council District 7 Notification of Development Proposals
03-17-2017		Sign posted on property

### ATTACHMENTS

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

1. **Zoning Map**



2107 Twin Hill Road

feet



130

Map Created: 3/21/2017

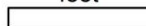


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2. Aerial



2107 Twin Hill Road  
feet



130

Map Created: 3/21/2017



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**3.**



MAR 13 2017

DESIGN SERVICES

Smith  
DB 9091 Pg 110

Cox  
DB 10233 Pg 39

MIKE SEELY & ASSOCIATES  
P.O. BOX 18768  
LOUISVILLE, KY. 40261  
(502) 643-1785

- BOUNDARY SURVEY -

FOR: Phyllis Fetter

LOCATION: 2107 Twin Hill Rd  
Louisville, KY 40207

RECORD Lot 78 Riverwood revised in  
SOURCES: Minor Plot DB 8609 Pg 122  
PB 21 Pg 72  
DB 9524 Pg 58

COUNTY: JEFFERSON

SCALE: 1=30 DATE: 3-5-'17

~~17~~ VARIANCE 10 14



5. Site Photos



The front of the house.





The front of the house where the encroachment occurs.





Looking along the front of the house where the encroachment occurs.





Another view of the front of the house.





The house across Twin Hill Road.