

**Board of Zoning Adjustment**  
**Staff Report**  
June 18, 2018



**Case No:** 18VARIANCE1043  
**Project Name:** 912 Mulberry Street  
**Location:** 912 Mulberry Street  
**Owner(s)/Applicant:** Nicholas A. Spalding  
**Jurisdiction:** Louisville Metro  
**Council District:** 10 – Pat Mulvihill  
**Case Manager:** Ross Allen, Planner I

**REQUEST**

- **Variance** from Land Development Code Section 5.2.2.C.2; table 5.2.2 for a proposed enclosed existing rear addition to encroach into the three ft. side yard setback on an R-6 zoned parcel within the Traditional Neighborhood Form District.

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

**CASE SUMMARY/BACKGROUND**

The subject property is located in the Louisville Metro in the Schnitzelburg Neighborhood approximately 207 feet south/southeast from the intersection of McHenry Street and Mulberry Street, and currently contains a single-family residence. The applicant has proposed to enclose an existing rear roofed portion of the structure flush with the western exterior wall of the residential structure. The proposed enclosure will result in finished living space that was previously used as a roofed rear porch area and will encroach into the required three ft. side yard setback by approximately one ft. resulting in a setback of the exterior structural load bearing wall, excluding the roof, to be within two feet of the property line. The site plan indicates that the existing roof of the residence will be approximately eight inches from the property line.

**STAFF FINDING**

Staff finds that the requested variance is adequately justified and meets 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 Section 5.2.2.C.2; table 5.2.2 for a proposed enclosed existing rear addition to encroach into the three ft. side yard setback on an R-6 zoned parcel within the Traditional Neighborhood Form District.

**TECHNICAL REVIEW**

- None

## **INTERESTED PARTY COMMENTS**

No interested party comments were received.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 9.1.B.1.a**

- (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 applicant states that "improvements sought will be built according to all applicable building codes and required permits will be obtained. The exterior wall of the addition closest to the neighbor will be a one-hour fire rated. The improvements will not obstruct any view of traffic for pedestrians or drivers."

- (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 applicant states, "the exterior siding will match the existing house, which is similar to other houses in the area." The existing residential dwelling already encroaches into the side yard setback and the resulting enclosure of a roofed porch for additional finished space will be flush with the existing exterior wall of the dwelling.

- (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 "improvements sought will be built according to all applicable building codes and required permits will be obtained. The exterior wall of the addition, closest to the neighbor, will be a one hour fire rated exterior wall. The addition is essentially not visible from the street and results in not creating a hazard or nuisance to the public.

- (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 in "Germantown/Schnitzelburg area, and specifically on Mulberry Street. Many houses in the area appear to be within approximately three feet of the adjoining side yard property lines. The applicant's addition will be no closer to my neighbor's property than the existing house."

## **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 because "many houses in the area do not appear to be in conformance with the current required side yard setback standard of three feet. Some if not many of the homes were built prior to the zoning regulations." The existing dwelling and roofed porch that is to be converted to finished living space are already within the side yard setback and the applicant is conforming to LDC requirements if the variance is approved.

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 may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as the proposed enclosure of the existing porch will allow additional storage space (the addition will include a closet) and the addition will allow access to the second story living space that is currently only accessible from the exterior of the residence.

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 no improvements will be initiated until the variance is granted and permits are obtained.

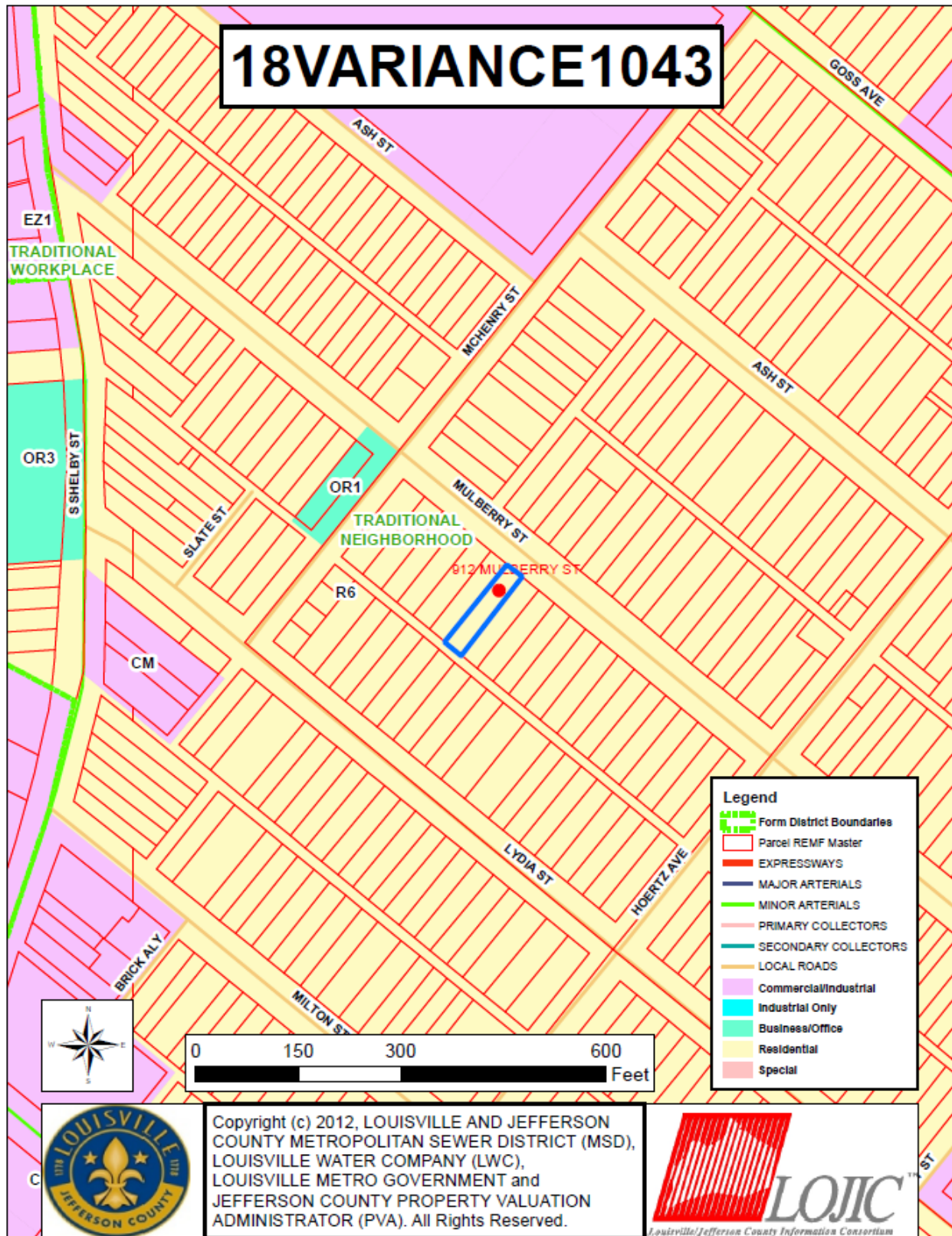
### **NOTIFICATION**

Date	Purpose of Notice	Recipients
06/18/2018	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 9
06/1/2018	Hearing before BOZA	Notice posted on property

### **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Site Plan

1. Zoning Map





2. Aerial Photograph



### 3. Site Plan

