

**Board of Zoning Adjustment**  
**Staff Report**  
July 16, 2018



<b>Case No:</b>	18VARIANCE1054
<b>Project Name:</b>	Mulberry Street Addition
<b>Location:</b>	1029 Mulberry Street
<b>Owner(s):</b>	Tandee Ogburn
<b>Applicant:</b>	John Offutt
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	10 – Pat Mulvihill
<b>Case Manager:</b>	Dante St. Germain, Planner I

**REQUEST**

- **Variance** from Land Development Code section 5.1.10.F to allow a structure to encroach into the required side yard setback.

Location	Requirement	Request	Variance
Side Yard Setback	2.5 ft.	0.219 ft.	2.281 ft.

**CASE SUMMARY/BACKGROUND**

The subject property is located in the Schnitzelburg neighborhood, and currently contains a one-story single-family residence. The applicant proposes to demolish an existing porch on the rear of the principal structure and construct a new two-story, camelback-style addition to replace it, with a deck extending off the rear. The new addition is proposed to follow the existing line of the wall of the principal structure, encroaching into the side yard setback by 2.281 ft. at the point of greatest encroachment. The applicant requests a variance to permit the encroachment.

Land Development Code section 5.1.10.F allows a lot that is less than 50 feet in width to have side yard setbacks equal to 10% of the width of the lot, or the minimum side yard required by the applicable form district, whichever is less. This lot is 25 feet in width, for a required side yard setback of 2.5 ft.

**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 5.1.10.F to allow a structure to encroach into the required side yard setback.

**TECHNICAL REVIEW**

- No technical review was undertaken.

## **INTERESTED PARTY COMMENTS**

No interested party comments were received.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.1.10.F**

- (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 new construction is proposed to follow the line of the wall of the existing principal structure, which 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 reduced side yard setbacks are common in the 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 as the existing structure encroaches into the side yard setback, which has caused no known hazard or nuisance. Additionally, the new construction will be required 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 the addition is proposed to follow the existing line of the wall.

## **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 reduced side yard setbacks are common in the general vicinity.

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 by requiring the applicant to construct an addition which is offset from the existing structure, leading to a less useable space.

3. 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.

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 is requesting the variance and has not begun construction.

#### **NOTIFICATION**

Date	Purpose of Notice	Recipients
06/14/2018	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 10
06/29/2018	Hearing before BOZA	Notice posted on property

#### **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Site Plan & Elevation
4. Site Photos

1. **Zoning Map**



1029 Mulberry Street  
feet

70  
Map Created: 7/3/2018



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2. Aerial Photograph



1029 Mulberry Street  
feet



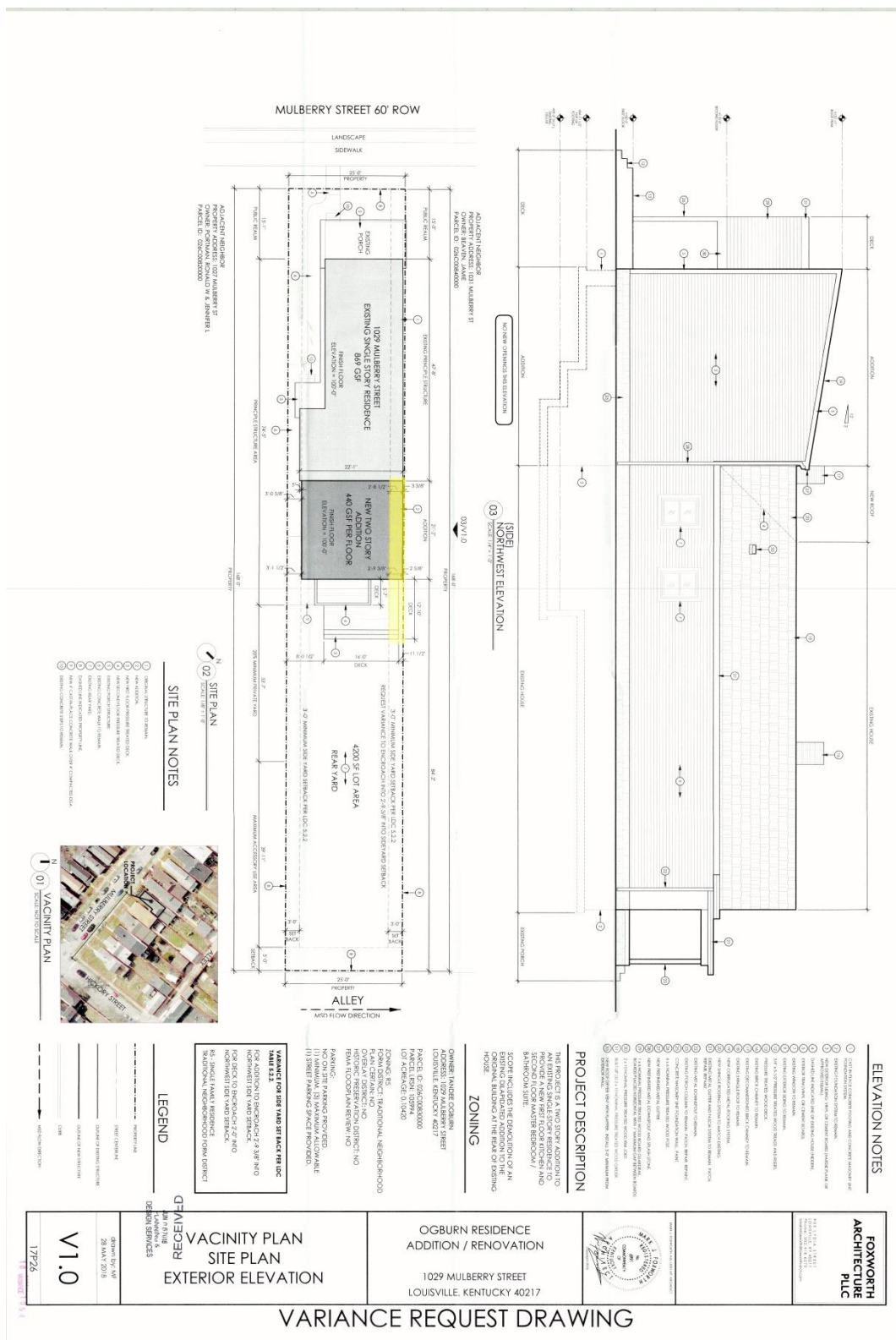
50

Map Created: 7/3/2018



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## Published Date: July 11, 2018



4. Site Photos



The front of the subject property.



The existing separation between structures.



The existing structure as seen from the rear alley. The garage belongs to a neighboring property.