

**Board of Zoning Adjustment**  
**Staff Report**  
August 5, 2019



<b>Case No:</b>	19-Variance-0020
<b>Project Name:</b>	Window Well Variance
<b>Location:</b>	3023 Eagle Pass
<b>Owner:</b>	John Nitzken
<b>Applicant:</b>	Jarrett Robbins
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	10 – Pat Mulvihill
<b>Case Manager:</b>	Steve Hendrix, Planning & Design Coordinator

**REQUEST**

- **Variance** from Land Development Code table 5.3.1 to allow a structure to encroach into the required side yard setback.

Location	Requirement	Request	Variance
Side Yard	5 feet	2 feet	3 feet

**CASE SUMMARY/BACKGROUND**

The subject 0.18 acre property is located in the Audubon neighborhood and contains a one-story single-family residence. The existing structure was built in 1951. A 480 square foot addition is proposed along with a new basement. The applicant is requesting to install a window well to provide a safe and quick exit from the basement in case of emergencies.

**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 from table 5.3.1 to allow a structure to encroach into the required side yard setback.

**INTERESTED PARTY COMMENTS**

No interested party comments were received.

### **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 window well will provide a safe and quick exit from the basement in case of an emergency.

- (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 addition will not be visible from the right-of-way.

- (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 proposal will be within the fenced yard.

- (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 window well will provide an additional escape route from the basement.

### **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 generally apply to land in the general vicinity or the same zone, since the applicant is requesting to have an additional path to exit the basement.

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, since the window well would not be allowed.

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.

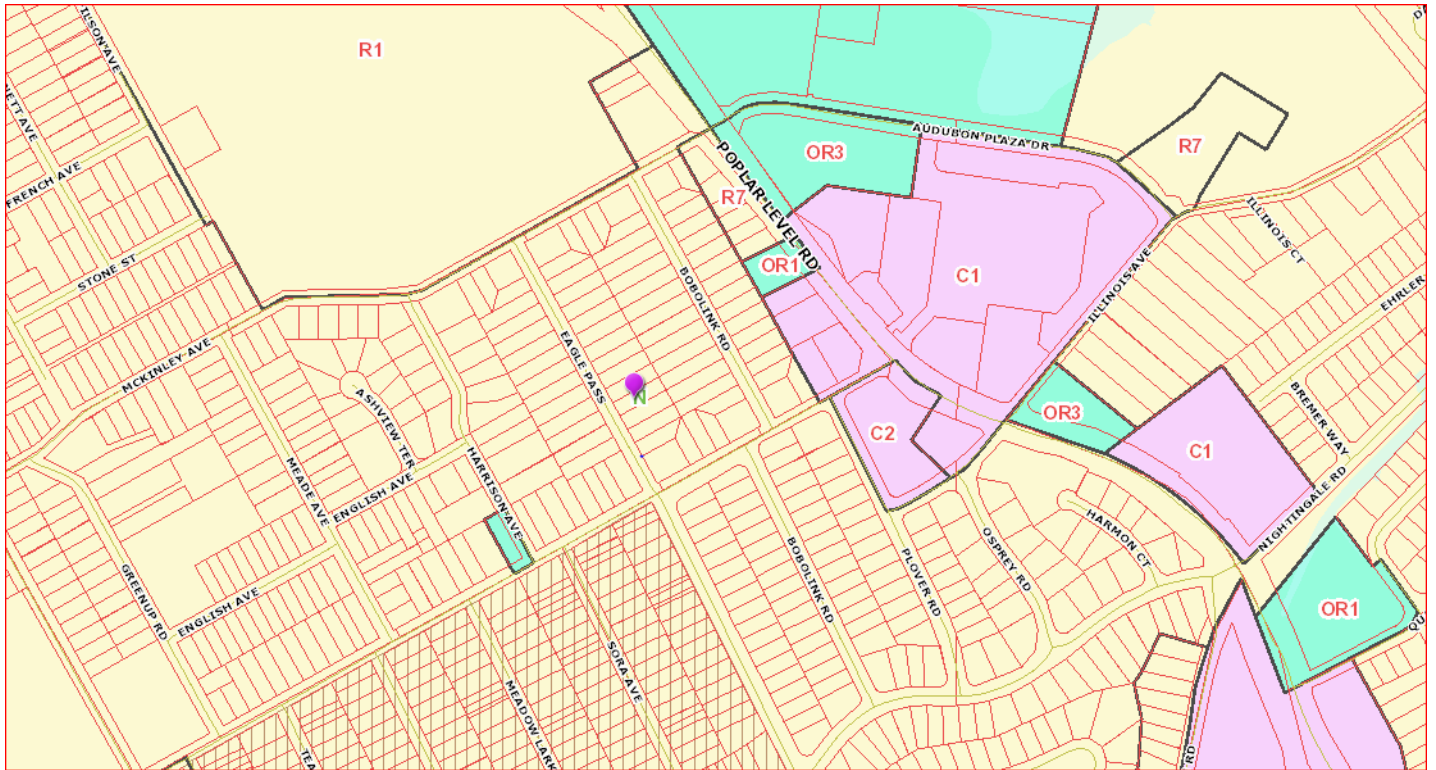
**NOTIFICATION**

Date	Purpose of Notice	Recipients
08/05/2019	Hearing before BOZA	Not Required for Business Session Item

**ATTACHMENTS**

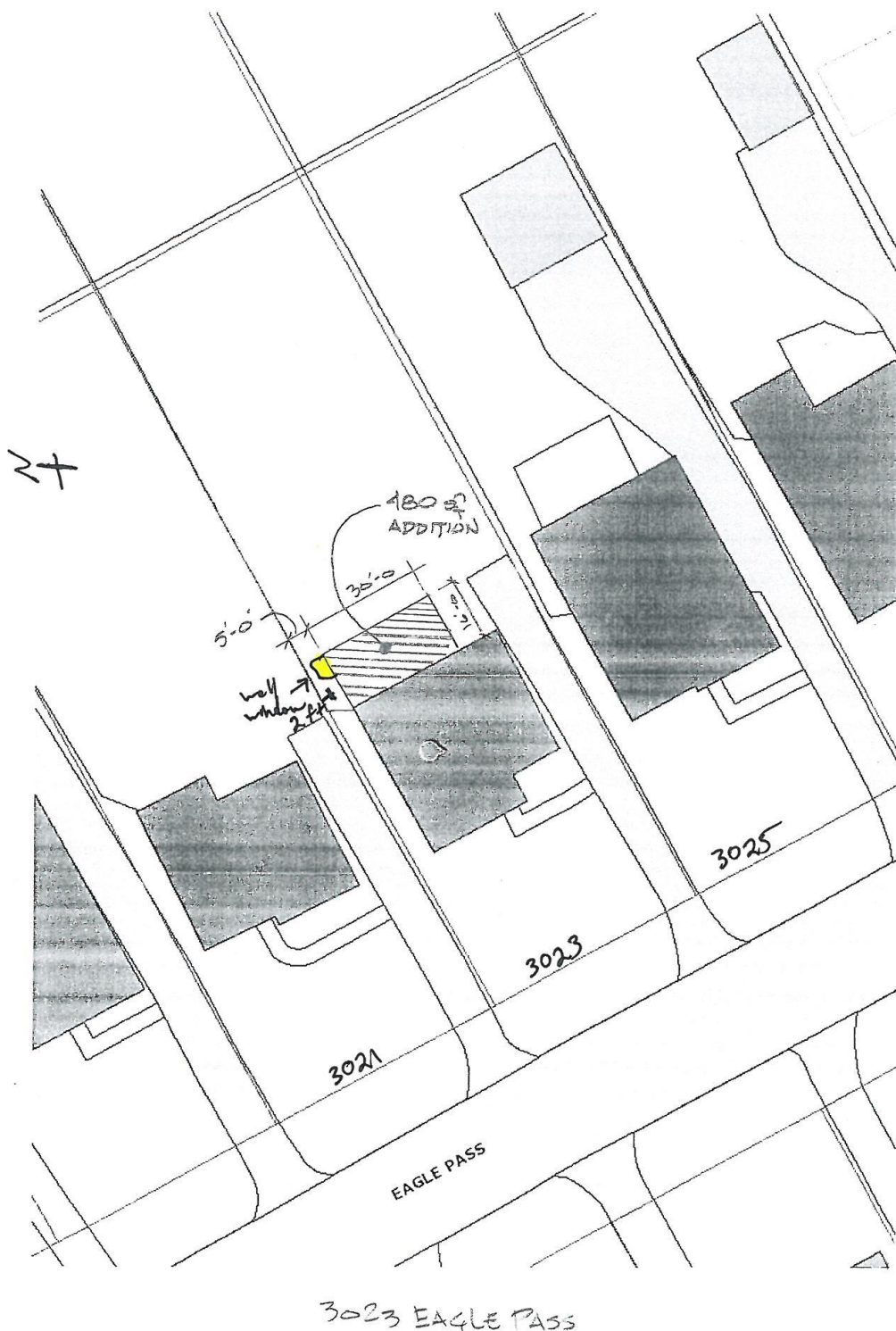
1. Zoning Map
2. Aerial Photograph
3. Site Plan

## 1. Zoning Map



2. Aerial Photograph





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