

# Board of Zoning Adjustment

## Staff Report

May 4<sup>th</sup>, 2020



<b>Case No:</b>	20-VARIANCE-0019
<b>Project Name:</b>	530 E Ormsby Side Yard and Private Yard Variance
<b>Location:</b>	530 E Ormsby
<b>Owner(s):</b>	CIU LLC
<b>Applicant:</b>	Eric Mueller
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	4 – Barbara Sexton Smith
<b>Case Manager:</b>	Zach Schwager, Planner I

### **REQUESTS:**

**Variance** from Land Development Code Section 5.1.10.F to allow a principle structure to encroach into the required side yard setback and Section 5.4.1.D.3 to provide less than 20% private yard area.

Location	Requirement	Request	Variance
East Side Yard	2.5ft	1ft	1.5ft
Private Yard Area	733 sqft	412.5 sqft	320.5 sqft

### **CASE SUMMARY/BACKGROUND**

The subject site is zoned R-6 Multifamily Residential in the Traditional Neighborhood Form District. It is a single-family structure located in the Shelby Park Neighborhood. The applicant is proposing to demolish the existing structure and rebuild to match the same footprint, but with a 457sqft addition in the rear.

### **STAFF FINDINGS**

Staff finds that the requested variance to encroach into the side yard setback meets standard B and D, but staff does not believe the variance meets standards A and C.

Staff finds that the requested variance to provide less than 20% private yard area meets all standards 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 5.1.10.F to allow a principal structure to encroach into the required side yard setback and 5.4.1.D.3 to provide less than 20% private yard area.

### **TECHNICAL REVIEW**

No technical review required.

## **INTERESTED PARTY COMMENTS**

Letter of support from homeowner of 532 E Ormsby Ave.

Letter of support from homeowner of 528 E Ormsby Ave.

## **RELATED CASES**

None.

## **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 may adversely affect the public health, safety or welfare, due to potential issues with providing maintenance to the structure without encroaching onto the neighboring property. However, the structure will be constructed to comply with all building codes, including fire codes.

- (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 proposed structure to be constructed in the rear and will be in character with the design of several other additions in the neighborhood.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The extension could provide excessive hardship to the property to the East because the new structure may impact the ability of the adjacent property owner to build in the future along the shared property line. Additionally, it will be difficult to maintain the new structure without stepping onto the adjoining neighbors' property. However, the requested variance will not cause a hazard to the public as the rebuilt structure will meet the existing footprint and the rebuilt home and addition will be constructed to comply with all building codes, including fire 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 proposed addition is slightly further away from the property line than the existing structure.

## **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: There are no special circumstances associated with this variance, however there are several similar expansions that resemble the proposed addition within the general vicinity of the subject property.

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 not permit the property owner to construct the addition or rebuild in a way that aligns with the existing foundation.

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 as the applicant is requesting the variance prior to beginning construction.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.4.1.D.3**

- (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 structure will need to be constructed to comply with all building codes, including fire codes.

- (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 is consistent with several other structures in the general area.

- (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 addition will need to be constructed to comply with all building codes, including fire 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 lot is already substandard in nature.

#### **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 does arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the subject property is smaller than many surrounding properties outside of this block.

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 because the property does not currently meet the regulations.

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 as the applicant is requesting the variance and prior to beginning construction.

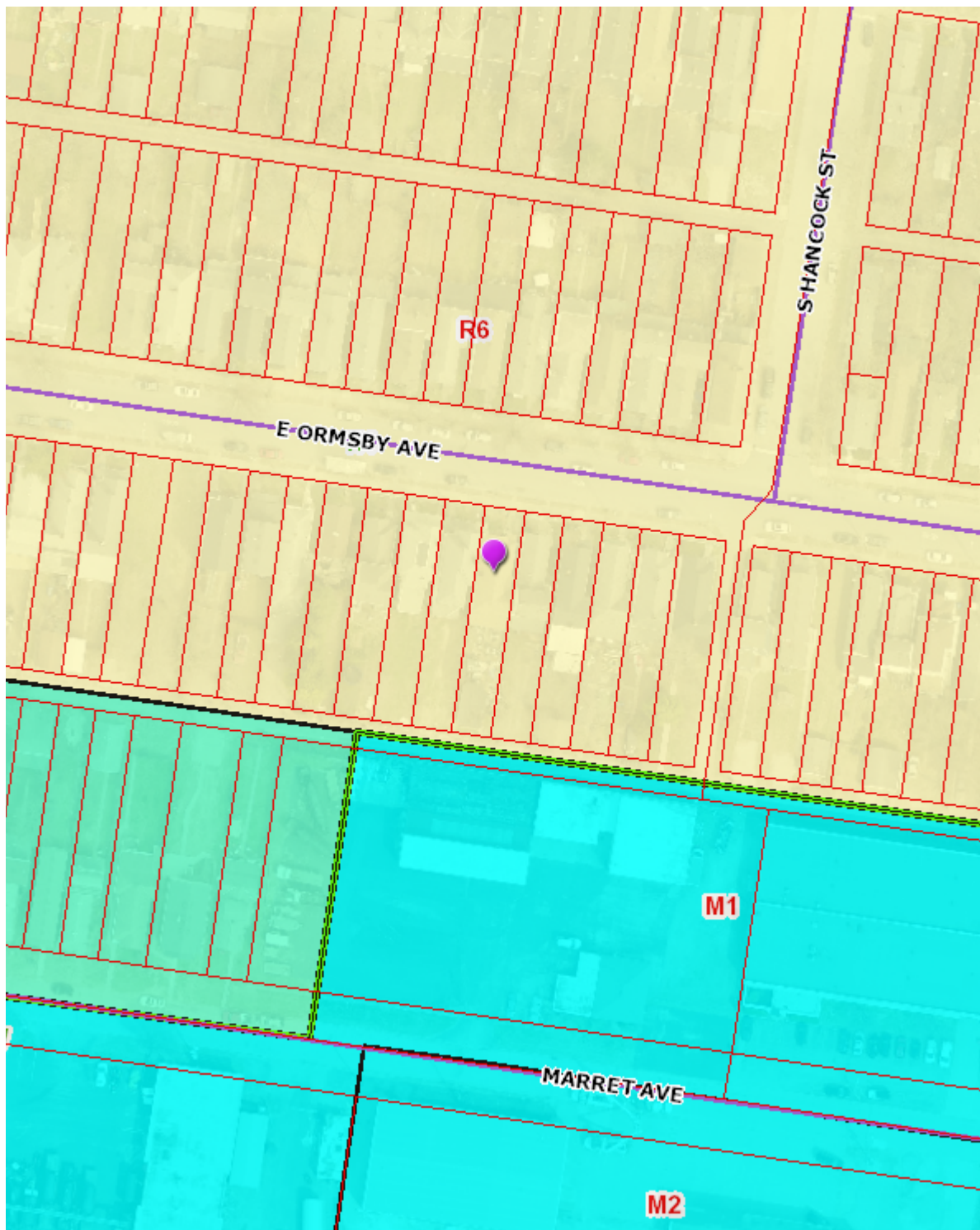
### **VARIANCE PLAN REQUIREMENT**

In accordance with LDC Section 11.5B.1.C (Requirement to Follow Approved Plan), a variance shall be approved only on the basis of the plan approved by the Board and shall be valid only for the location and area shown on the approved plan. All construction and operations must be conducted in accordance with the approved plan and conditions attached to the variance.

### **ATTACHMENTS**

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

1. Zoning Map





2. Aerial Photograph



### 3. Site Plan

