

# Board of Zoning Adjustment

## Staff Report

June 15, 2020



**Case No:** 20-VARIANCE-0053  
**Project Name:** Weisser Avenue Variance  
**Location:** 112 Weisser Avenue  
**Owner(s):** Teresa F. Boome & Jonathan P. Boome  
**Applicant:** Will Ready  
**Jurisdiction:** Louisville Metro  
**Council District:** 9 – Bill Hollander  
**Case Manager:** Zach Schwager, Planner I

### **REQUESTS:**

**Variance** from Land Development Code table 5.2.2 to allow a principle structure to encroach into the required side yard setback.

**Variance** from Land Development Code section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of a lot.

Location	Requirement	Request	Variance
Side Yard	3 ft.	0.5 ft.	2.5 ft.
Private Yard Area	3,444 sq. ft.	0 sq. ft.	3,444 sq. ft.

### **CASE SUMMARY/BACKGROUND**

The subject site is zoned R-5 Residential Single-Family in the Traditional Neighborhood Form District. It is a single-family structure located in the Crestmoor subdivision. The existing structure is 1 ½ stories and the applicant is proposing an addition on the rear that would be one-story directly behind the existing structure and two-stories at the rear of the proposed addition. The proposed two-story portion of the addition will encroach further toward the side property line than the existing structure. The applicant also proposes to demolish the two existing garages on the property.

### **STAFF FINDINGS**

Staff finds that the requested variance from table 5.2.2 meets standards (b), (c), and (d), but staff is concerned that the variance request does not meet standard (a) because construction and maintenance of the addition may have an adverse impact on the adjoining property owner. Staff finds that the requested variance from section 5.4.1.D.2 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 variances established in the Land Development Code from table 5.2.2 to allow a principal structure to encroach into the required side yard setback and section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of a lot.

## **TECHNICAL REVIEW**

No technical review required.

## **INTERESTED PARTY COMMENTS**

No interested party comments were received by staff.

## **RELATED CASES**

None.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM TABLE 5.2.2**

- (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, because the proposed addition must be constructed to comply with all building codes, including fire codes; however, staff is concerned that the variance could adversely affect the adjacent property owner because construction and maintenance of the structure may require encroachment onto the neighboring property.

- (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 structure will be similar in size and scale compared to surrounding structures.

- (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 because the addition must be constructed 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 proposed addition would provide a buffer for the private yard area from the neighboring multi-family 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: The requested variance does arise from special circumstances which do not generally apply to the land in the general vicinity or the same zone as the lot directly abuts a multi-family structure.

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 as the proposed addition would provide a buffer from the neighboring multi-family structure.

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 has not begun construction.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.4.1.D.2**

- (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, because the proposed addition must 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 structure will be similar in size and scale compared to surrounding structures.

- (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 because the addition must be constructed 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 there is more open space to the side of the house that is not counted toward private yard area.

#### **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 the land in the general vicinity or the same zone as the lot was previously two lots that were consolidated and there is additional open space to the side of the house that is not counted toward private yard area.

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 as there is more open space to the side of the house that is not counted toward private yard area.

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 has not begun 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.

### **NOTIFICATION**

Date	Purpose of Notice	Recipients
05/29/2020	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 9
06/03/2020	Hearing before BOZA	Notice posted on property

### **ATTACHMENTS**

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

## 1. Zoning Map

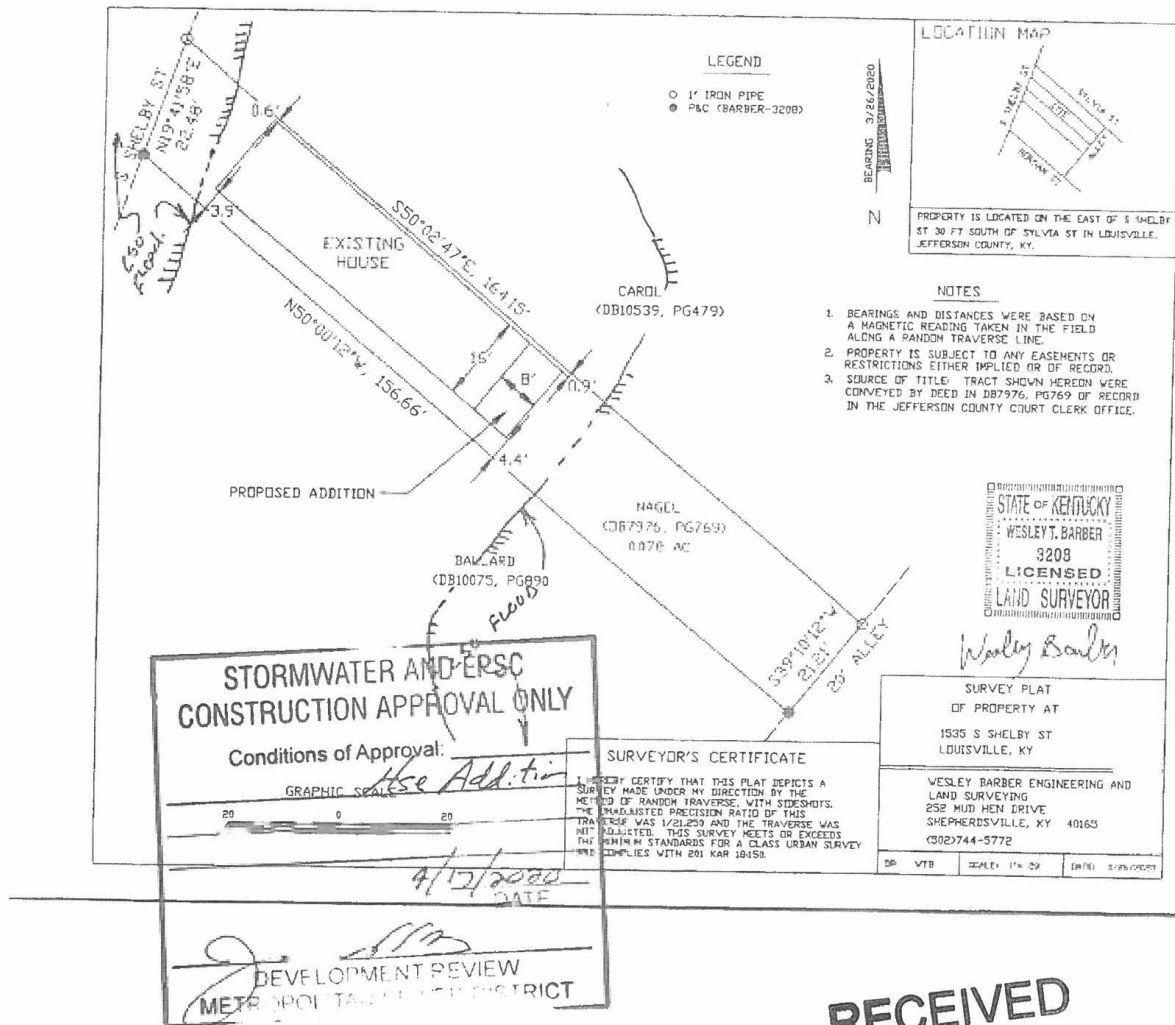


## 2. Aerial Photograph





### 3. Site Plan



**RECEIVED**

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PLANNING & DESIGN  
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20 - VARIANCE - 0052

#### 4. Site Photos



Front of subject property.





Property to the right.





Property to the left.





Properties across S. Shelby Street.





Variance area.