

# Board of Zoning Adjustment

## Staff Report

June 15, 2020



**Case No:** 20-VARIANCE-0017  
**Project Name:** St. Anthony Variance  
**Location:** 1416 St. Anthony Place  
**Owner(s):** Marian Cochiaosue  
**Applicant:** Matt Eldridge  
**Jurisdiction:** Louisville Metro  
**Council District:** 4 – Barbara Sexton Smith  
**Case Manager:** Nia Holt, Planner I

### **REQUESTS:**

**Variance** from Land Development Code table 5.1.10.F to allow a principle structure to encroach into the required side yard setbacks.

Location	Requirement	Request	Variance
East Side Yard	2.5 ft.	2.115 ft.	0.385 ft.
West Side Yard	2.5 ft.	0.385 ft.	2.115 ft.

### **CASE SUMMARY/BACKGROUND**

The subject site is zoned OR-2 Office Residential in the Traditional Neighborhood Form District. It will be a single-family structure located in the Mrs. M Preston Pope's Subdivision in the Highlands Neighborhood. The applicant is proposing to construct a one-story single family structure on the existing footprint of the previous structure, with the exception of an addition near the front on the east side.

The subject property is 25.083 feet in width. Land Development Code section 5.1.10.F allows for a lot less than 50 feet in width to have a side yard setback requirement of 10% of the width of the lot. The required side yard setback is therefore 2.5 feet.

### **STAFF FINDINGS**

For the west side yard, staff finds that the requested variance 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.

For the east side yard, 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 section 5.1.10.F to allow a principal structure to encroach into the required side yard setbacks

## **TECHNICAL REVIEW**

No technical review required.

## **INTERESTED PARTY COMMENTS**

Staff has received one call from the adjacent property owner in opposition.

## **RELATED CASES**

There are no related cases.

## **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 on the west side yard 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 as it is an existing structure and the 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 structure will be the same distance from the side property lines as the existing footprint.

## **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 not arise from special circumstances which do not generally apply to the land in the general vicinity or the same zone as the lot is similar in size and shape as the surrounding properties.

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 structure would be the same distance from the side property lines as the existing footprint of the previous structure and this lot has a substandard width.

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. The applicant is requesting the variance and has not begun construction, however the previous single family home was demolished.

### **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.

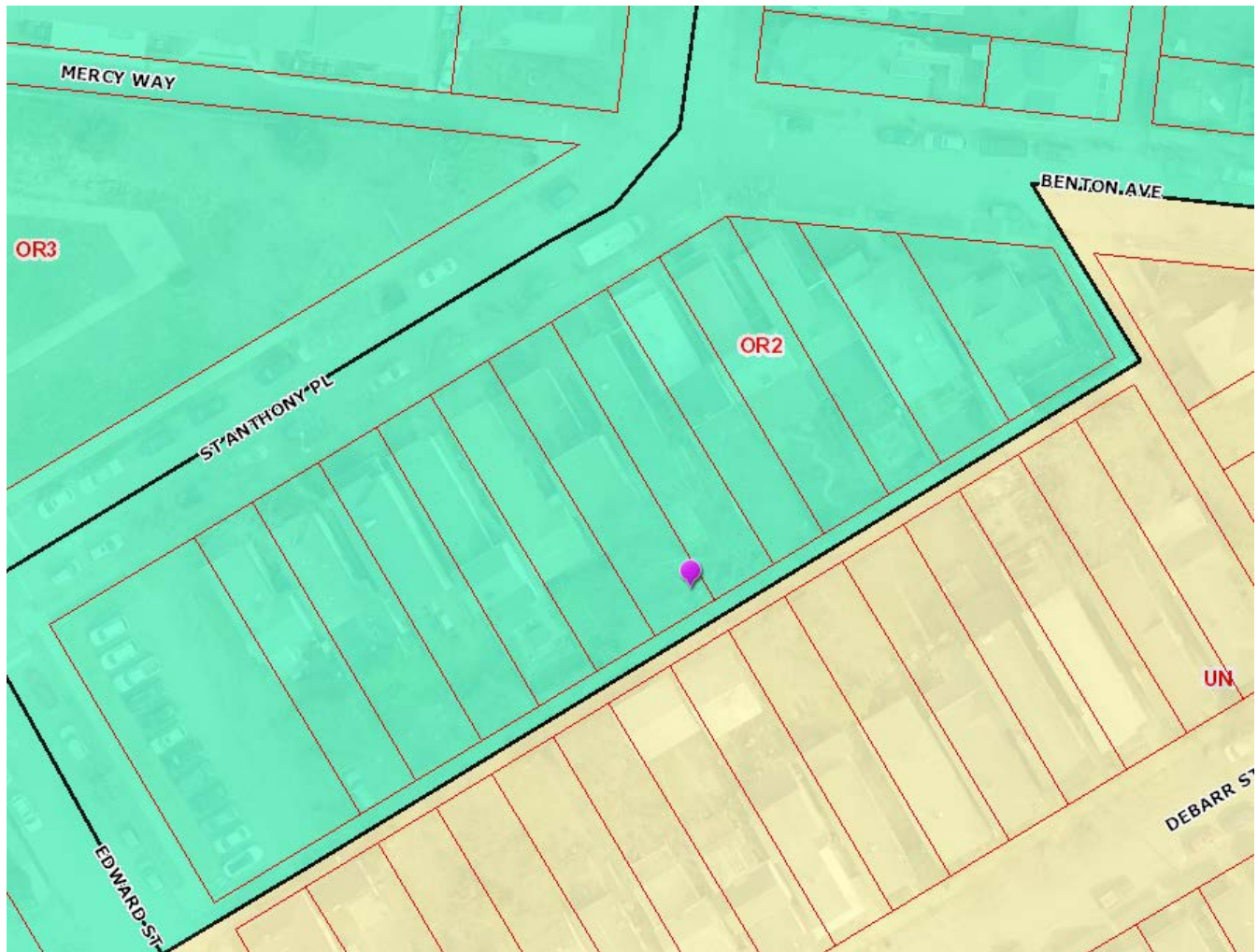
### **NOTIFICATION**

Date	Purpose of Notice	Recipients
5/28/2020	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 4
6/3/2020	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

