

Board of Zoning Adjustment

Staff Report

September 28, 2020



Case No:	20-VARIANCE-0100
Project Name:	S. Preston Variance
Location:	1903 S. Preston Street
Owner:	Apex Properties of Louisville, LLC
Applicant:	Derek Schroering
Jurisdiction:	Louisville Metro
Council District:	15 – Kevin Triplett
Case Manager:	Nia Holt, Planner I

REQUESTS:

Variance from Land Development Code Section 5.1.10.F to allow a principal structure to encroach into the required side yard setback.

Location	Requirement	Request	Variance
South Side Yard	2 ft	1 ft.	1 ft

CASE SUMMARY/BACKGROUND

The subject site is zoned R-5 Single-Family Residential in the Traditional Neighborhood Form District. The property is in the Merriwether Neighborhood and has an existing single-family structure on the site. The applicant is proposing to construct a 127 square foot deck on the rear of the property.

The subject property is 20.08 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 ft.

STAFF FINDINGS

Staff finds that the requested variance has been 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 principal structure to encroach into the required side yard setback.

TECHNICAL REVIEW

No Technical Review needed.

INTERESTED PARTY COMMENTS

Staff has received no comments from interested parties concerning this proposal.

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 will not adversely affect the public health, safety or welfare, because the proposed deck 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 proposed deck will be of similar design to other structures in the 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 because the structure 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 deck will only be one foot less than the required setback requirement.

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 generally apply to land in the general vicinity or the same zone as the subject property is similar in size and shape to 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 allow the applicant to construct the deck on the most reasonable location on the property.

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
9/10/2020	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 15
9/14/2020	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

