

Board of Zoning Adjustment

Staff Report

November 16, 2020



Case No: 20-VARIANCE-0088
Project Name: Brent Variance
Location: 944 Brent Street
Owner: Spratt Enterprises, LLC
Applicant: William Spratt
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith
Case Manager: Nia Holt, 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.

Location	Requirement	Request	Variance
North Side Yard	2.5 ft	0.97 ft.	1.53 ft.

Variance from Land Development Code section 5.4.1.D.3 to allow a private yard area to be less than the required 20% of the area of a lot.

Location	Requirement	Request	Variance
Private Yard Area	463 sf	148.5 sf	314.5 sf

CASE SUMMARY/BACKGROUND

The subject site is zoned R-6 Multi-Family Residential in the Traditional Neighborhood Form District. The property is in the Germantown Neighborhood and has an existing single-family structure on the site. The applicant is proposing to construct a rear addition.

The subject property is 25 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 ft.

STAFF FINDINGS

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.

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.

Staff finds that the requested variances are adequately justified and meet 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 5.4.1.D.3 to allow a private yard area to be less than the required 20% of the area of a lot

TECHNICAL REVIEW

No Technical Review needed.

INTERESTED PARTY COMMENTS

Staff has received one comment from a neighbor regarding 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 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. According to the applicant they have made several attempts to contact the affected property owner.

- (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 addition 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 addition will be a same distance from the side property lines as 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: 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 would create an unnecessary hardship on the applicant as the will not be able to construct an addition that will be compatible in design with the surrounding neighborhood.

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 as the applicant is requesting the variance after construction has begun.

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 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 addition 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 as the proposed 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 will allow for open space along the Southern property line and the private yard area will be of similar design to other yards in the neighborhood.

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 generally vicinity or the same zone.

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 will not be able to construct an addition that will be compatible in design with the surrounding neighborhood.

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
10/28/2020	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 4
11/2/2020	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

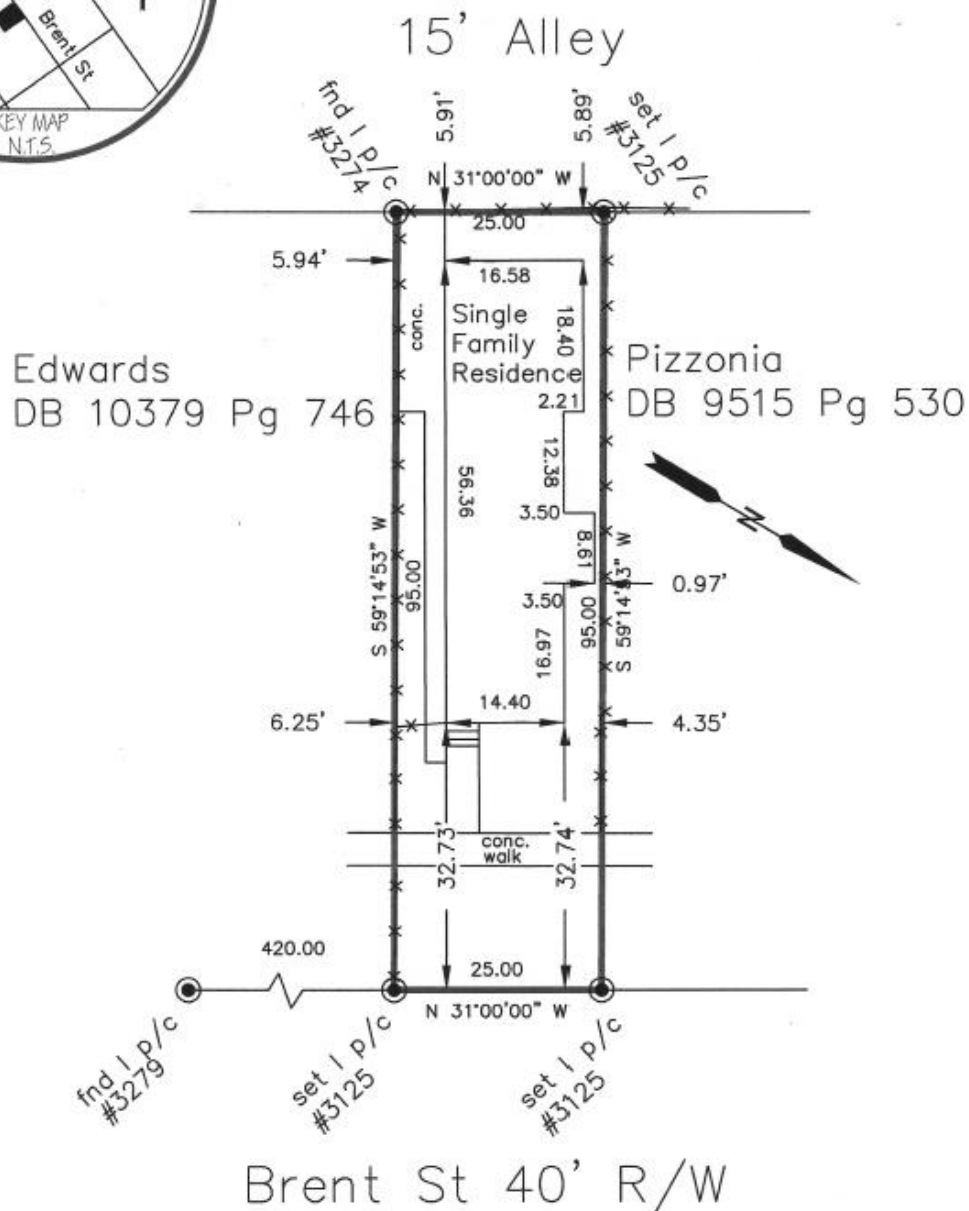
1. **Zoning Map**



2. Aerial Photograph



3. Site Plan



Note: A Title Exam was not provided.
This plat is subject to all easements whether shown or not.

