

Board of Zoning Adjustment Staff Report

October 16, 2023



Case No:	23-VARIANCE-0133
Project Name:	S Preston Street Variance
Location:	1343 S Preston Street
Owner:	JANDC Properties LLC.
Applicant:	Jose Hernandez
Jurisdiction:	Louisville Metro
Council District:	6 – Phillip Baker
Case Manager:	Molly Clark, Planner II

REQUESTS

- **Variance** from Land Development Code (LDC) section 5.2.2 to allow a second story to encroach into the required 2.7 ft setback.

Location	Requirement	Request	Variance
Side Yard	2.7 ft	0 ft	2.7 ft

CASE SUMMARY/BACKGROUND

The subject site is zoned OR-2 office residential and within the Traditional Neighborhood Form District. The subject site currently has a 1 story single family home. The applicant is proposing to construct a second story addition utilizing the existing building footprint. Four dwelling units are proposed within the new building and permitted by the zoning district. The proposed second story will encroach into the side yard setback along the northern and southern property line.

STAFF FINDING

Staff finds that the requested side yard variance and height variance are adequately justified for approval based on staff's analysis contained within the standards of review.

TECHNICAL REVIEW

LDC section 5.1.10 allows the side yard to be reduced to 10 percent of the width of the lot width if the lot is less than 50 ft.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR THE VARIANCE

- (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 structure must be constructed to comply with all applicable building codes and the Land Development Code, except where relief is requested.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The existing home and surrounding homes are built to similar setbacks from side property lines.

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

STAFF: The addition will not cause a hazard or nuisance to the public since it is required to meet all applicable requirements of the building code. The applicant will be fire rating the walls.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The proposed setback would not be an unreasonable circumvention of the zoning regulations because the proposed setback is consistent with the existing structure and to surrounding structures 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 land in the general vicinity or the same zone because the lot is the same size and shape in comparison to 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 applicant is constructing the addition over the existing 1 story building footprint and bringing the addition away from the side yard may cause issues in the construction of the structure due to the location of existing load bearing walls.

3. 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.

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 has not begun construction.

REQUIRED ACTIONS

- **APPROVE** or **DENY** the **VARIANCE** from Land Development Code (LDC) section 5.2.2 to allow a second story to encroach into the required 2.7 ft setback.

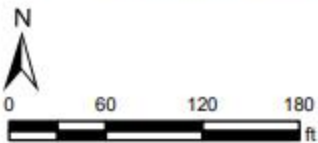
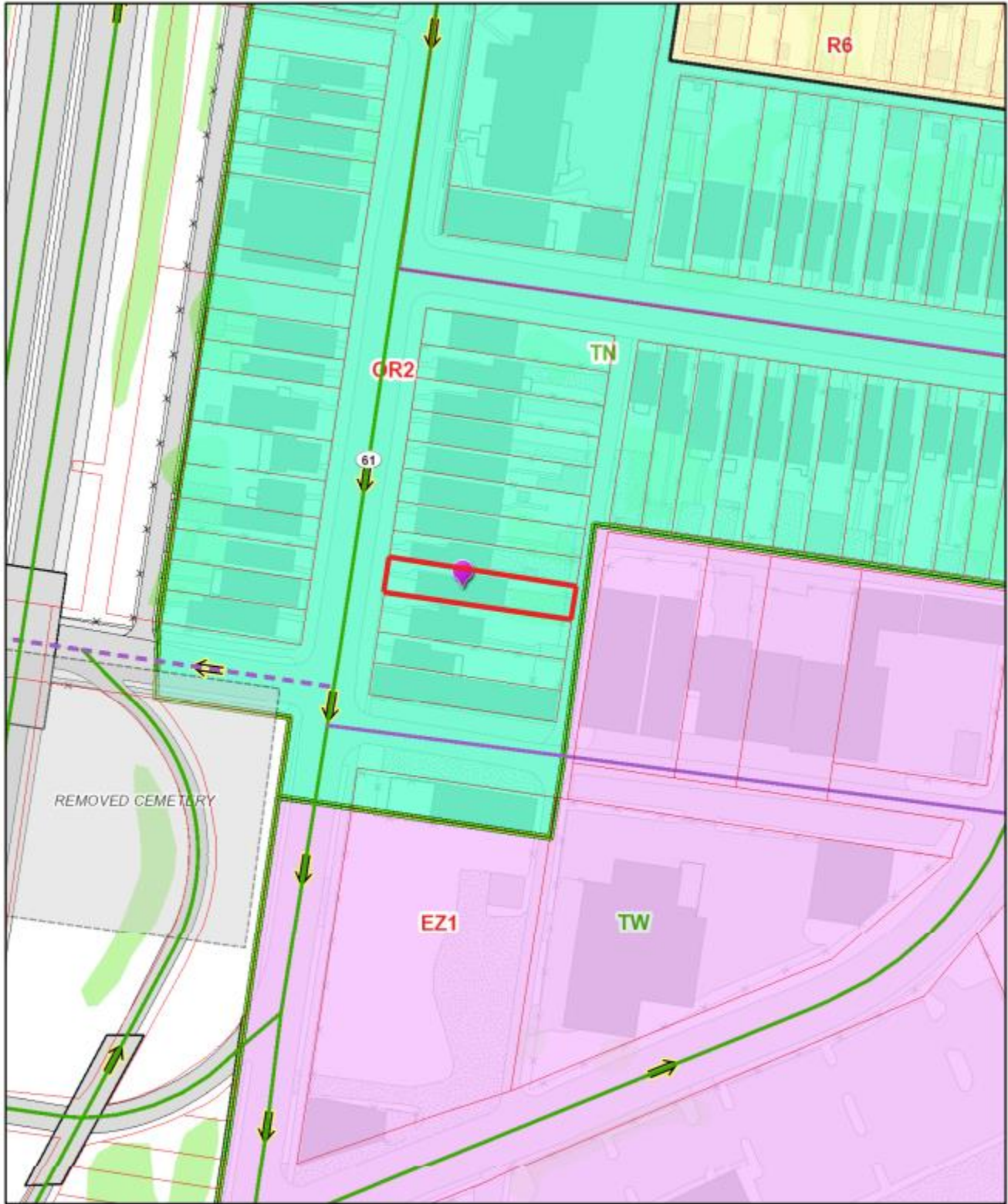
NOTIFICATION

Date	Purpose of Notice	Recipients
10-02-23	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 6

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. **Zoning Map**



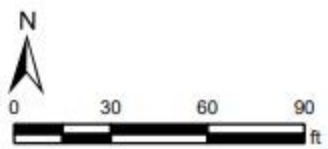
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2. Aerial Photograph



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