

Board of Zoning Adjustment

Staff Report

August 7, 2023



Case No: 23-VARIANCE-0087
Project Name: Mulberry Street Variance
Location: 1111 Mulberry St
Owner/Applicant: Richard Burnette, Trimworks
Jurisdiction: Louisville Metro
Council District: 15- Jennifer Chappell
Case Manager: Amy Brooks, Planner I

REQUEST:

Variance from the Land Development Code Table 5.2.2 to allow a primary structure to encroach into the side yard setback.

Location	Requirement	Request	Variance
Side Yard Setback	3 ft.	0 ft.	3 ft.

CASE SUMMARY/BACKGROUND

The subject site is zoned R-5 Single Family Residential in the Traditional Neighborhood Form District. The property is located on eastern side of Mulberry Street between Texas Avenue and Hickory Street in the Schnitzelburg neighborhood. The subject property is currently developed with a one-story single-family home. The applicant is proposing to construct a second-floor addition within the original footprint of the house. Since the current home encroaches into the side yard setback on western property line, the proposed addition has triggered the need for a dimensional variance.

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.

TECHNICAL REVIEW

The applicant is required to obtain a building permit and the structure may require alterations to the proposed building plans in order to meet building code requirements.

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 structure must be constructed to comply with all applicable building codes and the Land Development Code, except where relief is requested. 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 adjacent property located to the west of the subject property.

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

STAFF: The structure will not alter the essential character of the general vicinity as it will be built with material that is in character with the surrounding residential neighborhood. In addition, there are other principal structures along this stretch of Mulberry Street that encroach into the side yard setback.

- (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 location of the proposed structure is similar to others 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 generally apply to the land in the general vicinity or the same zone as the lot is similar in size and shape 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 existing house is built to the property line.

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.

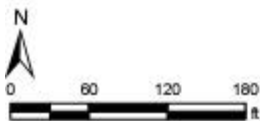
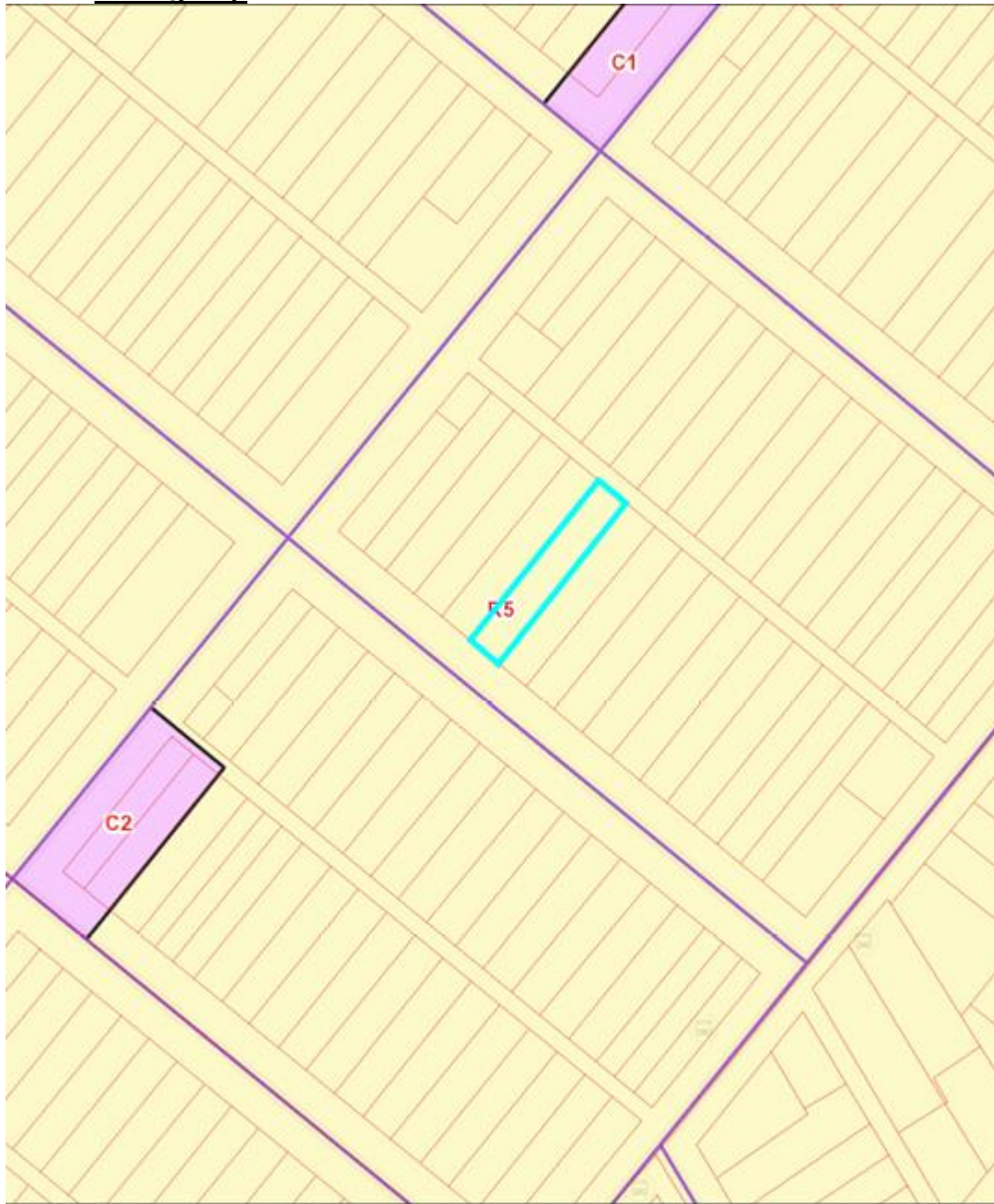
NOTIFICATION

Date	Purpose of Notice	Recipients
7/24/2023	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 15
7/26/2023	Hearing before BOZA	Notice posted on property

ATTACHMENTS

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

1. Zoning Map



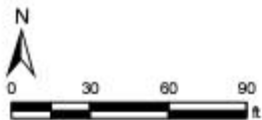
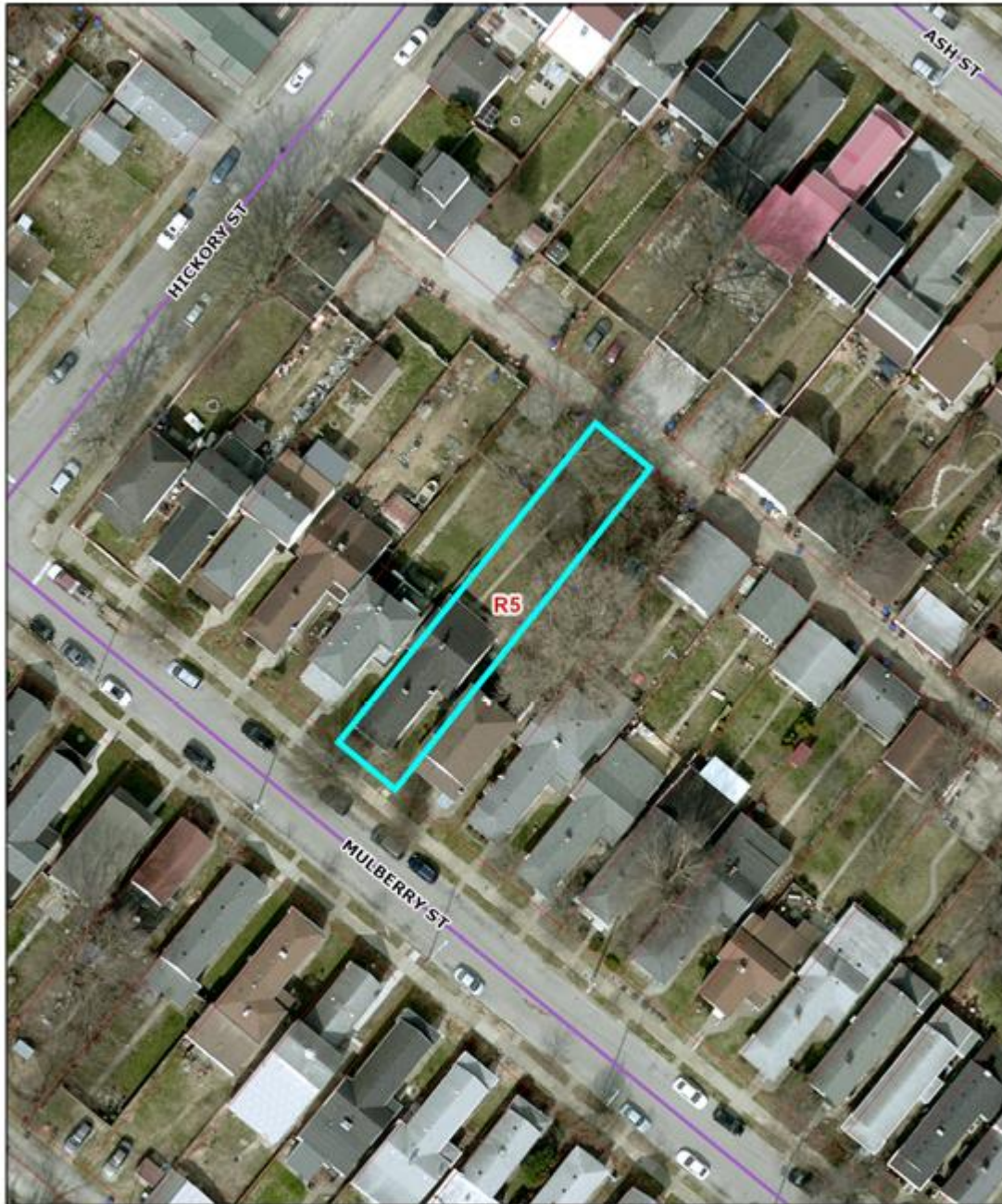
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2. Aerial Photograph



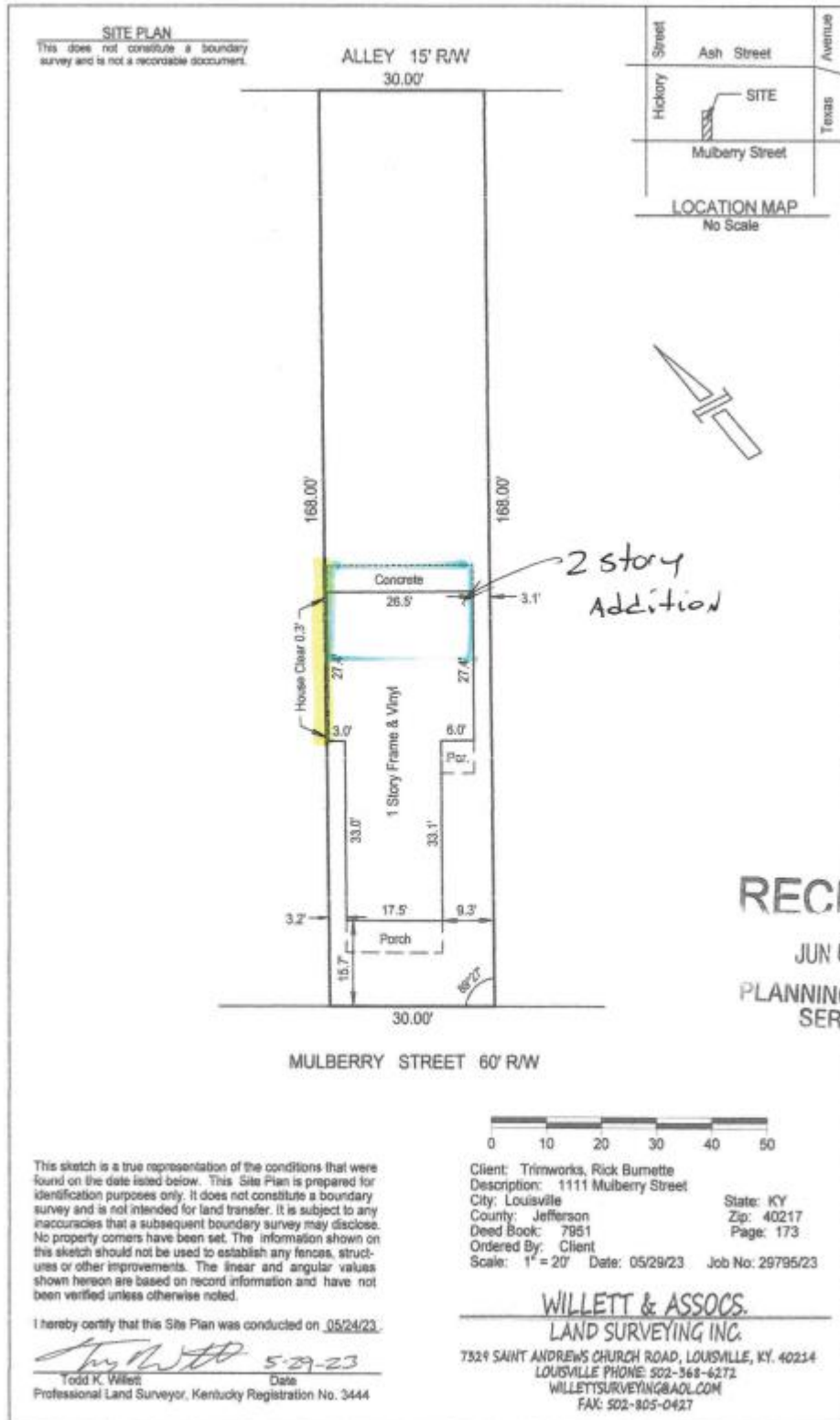
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3. Site Plan



4. Elevations

$$\frac{1}{8}'' = 1'$$

RECEIVED

JUN 08 2023
PLANNING & DESIGN
SERVICES



Front

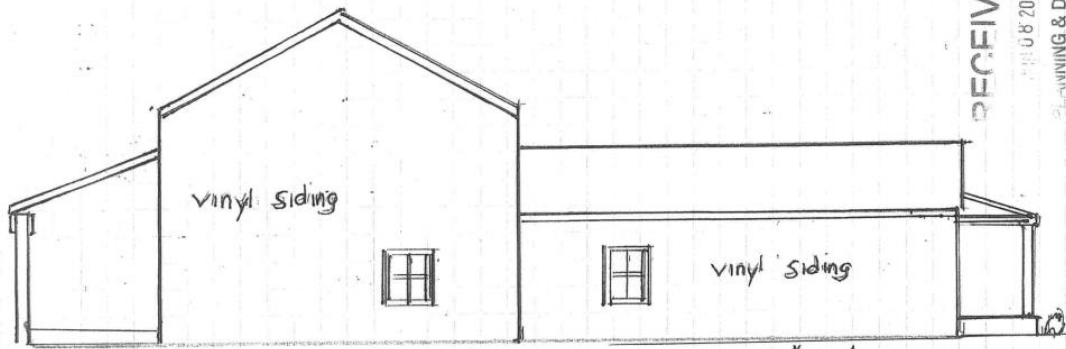


Rear



Right Side

1111 Mulberry St.



Left side

$$\frac{1}{8}'' = 1'$$

RECEIVED

JUN 08 2023
PLANNING & DESIGN
SERVICES

5. Site Photos



Front of subject property.



Left of subject property.



Right of subject property. Google street view, 2022.



Across the street from subject property



View of variance area from Mulberry St.