



26-VARIANCE-0069

Board of Zoning Adjustment
Staff Report
August 3, 2026

Public Realm Variance

Location: 1033 Highland Ave
Applicant: Marlana Robles
Representative: Marlana Robles
Jurisdiction: Louisville Metro
Council District: 6 – J.P. Lyninger
Case Manager: Mollie Share, Planner I

REQUEST & RECOMMENDED ACTION

1. **26-VARIANCE-0069:** Variance from Land Development Code Section 5.4.1.B.1.b to allow an unenclosed porch to encroach more than 33% of the public realm (Proposed Encroachment of 352 square feet, for a Variance of 180 square feet)

- Staff finds the justification for the request is inadequate and recommends the Board of Zoning Adjustment **DENY** the Variance

CASE SUMMARY

The site is approximately 0.11 acres and is in the R-6 Multi-Family Residential zoning district and Traditional Neighborhood form district. It is located on Highland Avenue, east of Swan Street. The applicant is proposing to construct a 352 square foot unenclosed porch, 2 feet away from the Highland Avenue right-of-way which encroaches more than 33% of the site's public realm area. Thus, a variance for encroachment into the public realm required.

STANDARD FOR REVIEW AND STAFF ANALYSIS FOR 26-VARIANCE-0058

1. *The requested variance will not adversely affect public health, safety, or welfare, and will not cause a hazard or nuisance to the public.*

STAFF FINDING: The requested variance will adversely affect public health, safety, or welfare and create a potential public safety hazard because the proposed deck height and location will create an unsafe corridor with minimal visibility for pedestrian traffic. The raised porch in such close proximity to the sidewalk creates a visual obstruction from the pedestrian and what they are approaching on the sidewalk, providing less certainty of a safe surrounding and a loss of reaction time.

2. *The requested variance will not alter the essential character of the general vicinity and will not allow an unreasonable circumvention of the requirements of the zoning regulations.*

STAFF FINDING: The requested variance will alter the essential character of the general vicinity as there are no other porches or decks that are similarly close to the public right of way or occupying more than 33% of the public realm, regardless of grade changes. The proposed addition would stand out amongst the homes along this block and alter the essential character of the general vicinity. Because there are other possible solutions to the issue the applicant is facing, and the porch is not yet constructed, this request is not a reasonable circumvention of the zoning regulations.

3. *The requested variance arises from circumstances which do not generally apply to land in the general vicinity, or in the same zone.*

STAFF FINDING: The requested variance does not arise from circumstances which do not generally apply to land in the general vicinity or in the same zone. While the property in question is subject to a steep grade change along the front of the property, the topography is similar in grade to others along the same side of Highland Avenue and nearby Schiller Avenue.

4. *The strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.*

STAFF FINDING: The strict application of the provision of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship. Relief without a variance is built into the code, already allowing 33% encroachment. The applicant would be able to construct a smaller deck that does not encroach more than 33% of the public realm even with the grade change and install landscaping to minimize the yard maintenance needed on this grade change. Additionally, the applicant could repair the existing steps to the property and add additional safety measures instead of changing the entire front façade of the existing house.

5. *The circumstances are the result of action of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.*

STAFF FINDING: The circumstances are not the result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought as the work has not begun on the proposed structure for which the variance is being requested.

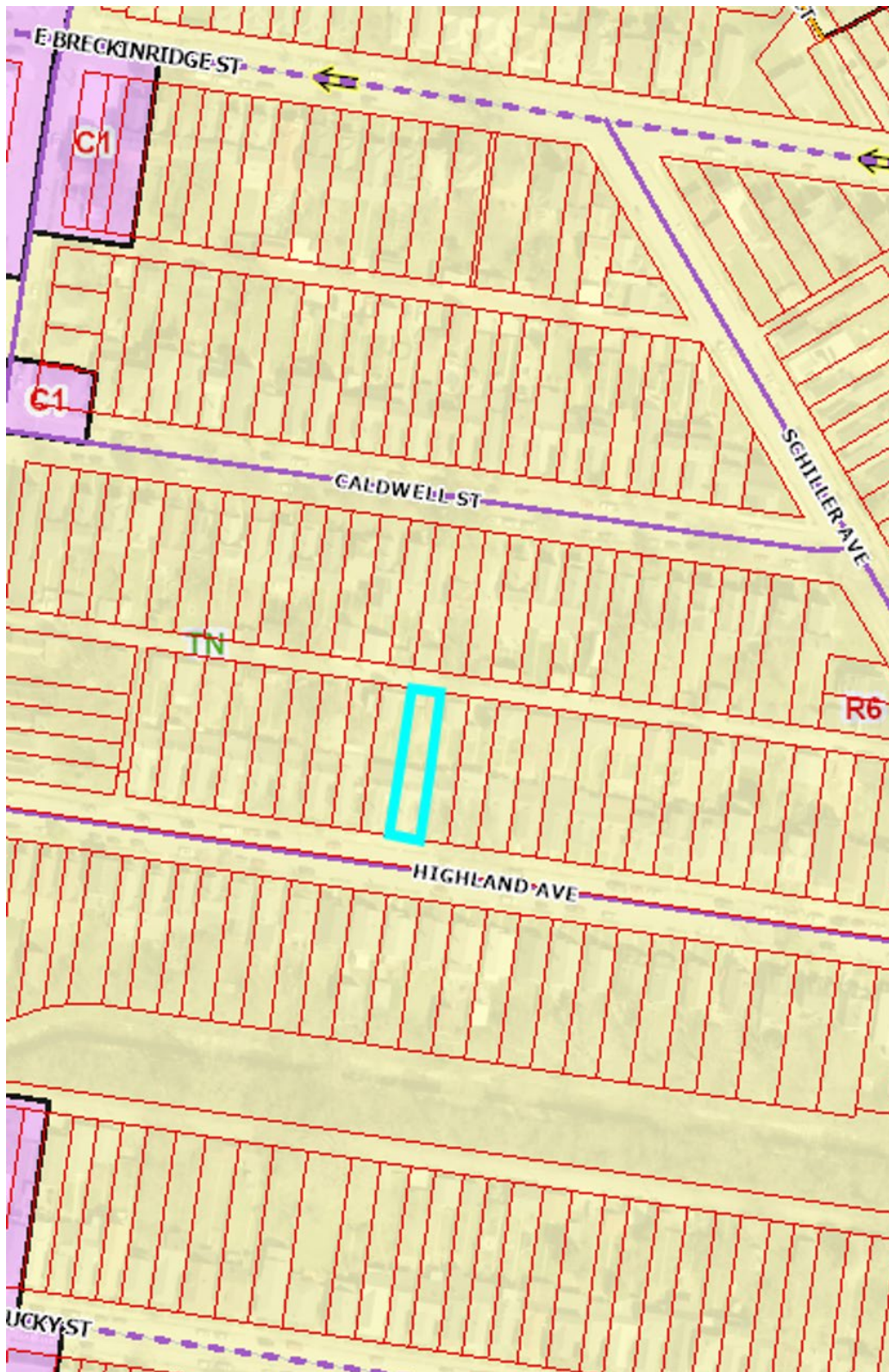
NOTIFICATION

DATE	PURPOSE OF NOTICE	RECIPIENTS
7/10/2026	Hearing before Board of Zoning Adjustment (BOZA)	1st tier adjoining property owners and current residents
7/11/2026	Hearing before BOZA	Registered Neighborhood Groups in Council District 6
7/21/2026	Hearing before BOZA	Sign Posting on property.

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

