

**MINUTES
LOUISVILLE ZONING BOARD OF APPEALS
FEBRUARY 20, 2007**

Louisville Zoning Board of Appeals met in regular session with Chairman Campbell presiding. The meeting was called to order at 6:30 P.M.

MEMBERS PRESENT

John Phillippi
John Campbell, Chairman
Ken Grosswiller
Guy Guidone

MEMBER ABSENT

William Ferrell

CITY PERSONNEL PRESENT

E. Thomas Ault, City Manager
Robert Duffrin, Law Director
Sue Mendenhall, Deputy City Clerk
Deborah Sanborn, Director of Planning & Development

MINUTES OF THE JANUARY 9, 2007 MEETING

MEMBER PHILLIPPI MOVED, MEMBER GUIDONE SECONDED, and the Motion carried to approve the Minutes of the January 9, 2007 meeting as presented. The vote: All yea.

NEW BUSINESS

AB 07-01 JANET & ELDEN THOMAS, OWNERS, 1742 EAST BROAD STREET, VARIANCE OF SECTION 1125.04(B) FOR REAR YARD SETBACK LESS THAN THE REQUIRED 40 FT (24 FT PROPOSED) AND SECTION 1125.04(C) FOR A SIDE YARD SETBACK LESS THAN THE REQUIRED 15 FT (4 FT PROPOSED).

Director of Planning & Development, Deborah L. Sanborn presented the following staff report.

- The subject lot is a standard lot measuring 98 ft X 145 ft or 14,210 sf
- The home is a two-story structure
- The applicant proposes to construct an approximate 600 sf sunroom addition
- The addition would have a 4 ft side yard set back on the west and a 24 ft rear setback on the north

- Section 1125.04 of the Louisville Zoning Code requires minimum side yards in an R-1 district be 10 ft and 15 ft for a two-story house and the rear yard a minimum of 40 ft
- Currently the house has 10 ft side yard setbacks and is, therefore, non-conforming
- Section 1111.02 of the code addresses non-conforming uses and states that a non-conforming use may be changed provided the change is identical or less in conflict with the requirements of the district

DISCUSSION

- Variances are intended to alleviate a situation in which, for no public reason, zoning for an area more stringently burdens one parcel of land than others. The zoning requirements do not impact the subject lot more stringently than others.
- Conditions justifying a variance arise from the characteristics of the property itself, not the personal situation of the owner. The lot is standard and could accommodate an addition.
- The standard to use in determining the merits of an area variance is whether the denial of the variance would result in “practical difficulties” for the property owner. The following questions need to be examined in considering an area variance:
 1. Can there be a beneficial use of the property without the variance? Yes, the lot still accommodates a 3120 sf home and would have room for an addition placed in a different manner.
 2. Is the variance substantial? The rear yard setback would be 24 ft instead of the required 40 ft. or a 40% reduction in the rear yard. The side would be 4 ft instead of 15 ft a 73 % reduction from the required setback or 4 ft instead of 10 ft a 60% reduction from the current condition.
 3. Will the essential character of the neighborhood be substantially altered or adjoining properties suffer a substantial detriment? The general character of the area is residential though much of the immediate area is vacant lots all standard in size. When built upon these lots will be required to meet the setback requirements for an R-1 zoning district making the proposed addition significantly closer to the lot lines than the other main structures in the area.
 4. Did the property owner purchase the property with knowledge of the zoning restriction? Unknown
 5. Can the problem be solved by some other manner other than the granting of a variance? Yes, the addition could be placed in a different location, it could be smaller or it could have a different configuration.

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Elden Thomas, owner addressed the commission stating they wish to build this addition as a year round room with windows from top to bottom. They want this configuration because of the location of French doors and so the kitchen window view is not obstructed and the exterior stairway will be left outside. He discussed the elevation of the addition being planned 3 ft lower than the house. He stated their neighbors are in favor of the addition. He reviewed pictures of the site with the commission and stated they tried 10 or 12 other configurations.

The commission discussed the vacant lots in the area, that the variance request is extreme, the importance of being consistent, and if other configurations can be considered to satisfy the door issue.

MEMBER PHILLIPPI MOVED, MEMBER GROSSWILLER SECONDED, and the Motion carried to deny the variance request. The vote: Phillippi yea, Campbell no, Grosswiller yea, Guidone no.

AB 07-02 ARCHER CORPORATION, APPLICANT FOR EAST OF CHICAGO, 520 WEST MAIN STREET, VARIANCE OF SECTION 1155.05(E), FOR A PRIMARY WALL SIGN EXCEEDING THE ALLOWED 21 SQ FT (31.37 SQ FT PROPOSED) AND A SECONDARY WALL SIGN EXCEEDING THE ALLOWED 25% OF THE PRIMARY FRONTAGE SIGN OR 5.25 SQ FT (40.73 SQ FT PROPOSED).

Director of Planning & Development, Deborah L. Sanborn presented the following staff report.

East of Chicago is a retail establishment located in the plaza at West Main Street and Gorgas Street.

BACKGROUND INFORMATION AND ZONING REQUIREMENTS

- Section 1155.05(e) of the Louisville Zoning Code states, “One exterior wall sign may be erected ... The total permitted area of a wall sign shall be one square foot for each foot of building frontage or 300 square feet, whichever is smaller. Such wall sign shall be erected on the side of the building used in determining the frontage. Buildings with multiple frontages may have an additional wall sign on the secondary frontage. Buildings with a public side entrance or a public back entrance from a public right of way, or a parking lot open to the public may have secondary wall sign over such entrance. No building shall have more than three wall signs. The area of a secondary wall sign, which meets the above requirements, shall not exceed twenty-five percent (25%) of the primary frontage sign.”
- The linear frontage of the storefront is 21 ft
- The applicant wishes to install a 31.37 sf primary wall sign on the Gorgas

- Street elevation of the building which is 10.37 sf larger than permitted by code
- The applicant also proposes to install a 40.73 sf secondary wall sign on the Main Street elevation - 25% of the allowable primary sign (21sf) is 5.25 sf, 25% of the proposed primary sign (31.37 sf) is 7.84 sf

DISCUSSION

- Variances are intended to alleviate a situation in which, for no public reason, zoning for an area more stringently burdens one parcel of land than others.
The signage requirements are no more burdensome for this storefront than for the other storefronts in this plaza.
Conditions justifying a variance arise from the characteristics of the property itself, not the personal situation of the owner. The plaza has the circumstance that the main traffic flow is on Main Street. The building fronts Gorgas Street though the ground sign used by all tenants faces Main Street
- The standard to use in determining the merits of an area variance is whether the denial of the variance would result in “practical difficulties” for the property owner. The following questions need to be examined in considering an area variance:
 1. Can there be a beneficial use of the property without the variance?
Yes, the denial of this request will not render the property unusable.
 2. Is the variance substantial? According to the code, the primary wall sign may only be 21 sf. The request is a 49% increase. The secondary wall sign may be only 5.25 sf, the request is a 675% increase
 3. Will the essential character of the neighborhood be substantially altered or adjoining properties suffer a substantial detriment? The overall character of the area is commercial development.
 4. Did the property owner purchase the property with knowledge of the zoning restriction? East of Chicago currently has a 21 sf primary wall sign and no secondary sign so the applicant is aware of the regulations.
 5. Can the problem be solved by some manner other than the granting of a variance? The problem is self-created due to the fact the applicant has a specific design. The problem arises from the wishes of the applicant and not necessarily the characteristics of the property.

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Rayonna Leiner, 847 Maplewood Ct, Wooster, co-owner of East of Chicago stated that new signage is needed at the site. A reader board is critical for the business. They have been told by many customers that they cannot locate the business.

The commission discussed location, product, existing signage on the site, temporary signage and a sign variance that was granted for a restaurant in the area.

Kris Babetski, Archer Signs Corporation questioned whether Grinders Above & Beyond's primary and secondary sign are the same size.

MEMBER PHILLIPPI MOVED, MEMBER GROSSWILLER SECONDED, and the Motion carried to deny the variance request. The vote: All yea.

Having no further business, the meeting was adjourned at 7:20 P.M.

Respectfully submitted,

Sue Mendenhall
Deputy City Clerk