

**MINUTES
LOUISVILLE ZONING BOARD OF APPEALS
JUNE 12, 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
William Ferrell
Ken Grosswiller
Guy Guidone

CITY PERSONNEL PRESENT

E. Thomas Ault, City Manager
Rob Duffrin
Cynthia Kerchner
Sue Mendenhall, Deputy City Clerk
Deborah Sanborn, Director of Planning & Development

MINUTES OF THE MAY 8, 2007 MEETING

MEMBER PHILLIPPI MOVED, MEMBER GROSSWILLER SECONDED, and the Motion carried to approve the Minutes of the May 8, 2007 meeting as presented. The vote: All yea.

Chairman Campbell swore in those in attendance planning to speak before the board.

NEW BUSINESS

AB 07-10 WESTWOOD BEVERAGE CENTER, 800 WEST MAIN, VARIANCE OF SECTION 1157.03(D) FOR A REAR PARKING LOT DRIVE APPROACH LESS THAN THE REQUIRED 20 FT FROM THE CENTER OF THE CURVE (15 FT PROPOSED) AND A DRIVE APPROACH IN EXCESS OF THE ALLOWED MAXIMUM WIDTH OF 40 FT (90 FT PROPOSED) AND SECTION 1157.03(E) FOR A LANDSCAPED BUFFER LESS THAN THE REQUIRED 10 FT WIDE STRIP (0 TO 12 FT PROPOSED) AND VARIANCE OF SECTION 1157.03(C) FOR REQUIRED INTERNAL STORM DRAINAGE (NO INTERNAL DRAINAGE PROPOSED).

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

EXISTING CONDITION

At present the subject property is vacant land

ZONING

- Parcel: B-5 (recently rezoned)
- North: B-5
- South: I-2
- East: B-5 & I-1
- West: I-1

BACKGROUND AND ZONING INFORMATION

- The applicant plans to relocate his beverage retail business from the north side of West Main Street to the south side. The project will involve the demolition of existing structures and the construction of a new retail building.
- Although the proposed site contains sufficient parking, the applicant proposes to construct a parking area directly across West Gorgas St. to accommodate employee parking and deliveries.
- Utah is a 15 ft wide non-through alley that serves to access a small section of West Gorgas along which five sites are located. Two of the sites are under contract to the applicant.
- The subject site is comprised of two substandard lots measuring approximately 35 ft x 92 ft and 110 ft x 31 ft configured in an L-shape.
- The applicant proposes to utilize a portion of the area for 9 parking spaces running from east to west
- The curb cut area would be used for temporary parking of delivery vehicles if needed. A loading space is provided on the site of the store.

**SITE PLAN REVIEW
PARKING LOT IN A B-5 ZONING DISTRICT**

STANDARD	REQUIREMENT	PROPOSED
Permitted uses	Various retail, office and service uses and off-street parking lots	Off-street parking
Minimum lot area	None	6516 sf
Minimum lot frontage	50 ft	115 ft
Minimum front yard depth	10 ft landscape buffer	<i>No buffer proposed</i>
Minimum rear yard depth	25 ft	25 ft

Minimum side yard width	0 ft	11 ft
Maximum building height	35 ft	NA

LOUISVILLE ZONING BOARD OF APPEALS JUNE 12, 2007 PAGE 3

PARKING AND LOADING REQUIREMENTS		
Minimum number of off street parking spaces	NA	Parking lot
Parking space size	10 ft x 18 ft	10 ft x 18 ft
Parking area design <ul style="list-style-type: none"> ▪ Paving ▪ Storm drainage ▪ Lighting 	Hard surface with internal drainage system; All lighting directed away from adjoining properties	No information submitted pertaining to surface storm water management must comply with Section 1185 of the ordinances & must be approved by city engineer variance requested. Storm water review underway for retail site north of subject site. No lighting indicated on plan

- 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 other substandard lots in a B-5 district.*
- Conditions justifying a variance arise from the characteristics of the property itself, not the personal situation of the owner. *The subject parcels do not individually meet the minimum lot requirements for B-5 zoning. Together they create a standard lot however; it is very irregular in shape. The applicant's desire to use this site for parking creates a situation due to the configuration of the land the setback requirements cannot be met. The request for a wider than allowed drive is to accommodate additional delivery vehicles as needed. Additionally, the distance of the drive from the intersection is reduced due to the desire of the applicant to use the front yard/driveway for temporary truck parking resulting in the wider than permitted entrance/exit.*
- 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 could accommodate a small development but the configuration of the site would prove challenging.
2. Is the variance substantial? *The driveway would be 15 ft from Utah Street instead of the required 20 ft. The width of the drive would be 90 ft instead of the maximum 40 allowed by code. The parking lot would not have a 10 ft landscape buffer along West Gorgas. Storm water management has not been proposed.*

LOUISVILLE ZONING BOARD OF APPEALS JUNE 12, 2007 PAGE 4

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 commercial/industrial interspersed with older non-conforming uses.*
4. Did the property owner purchase the property with knowledge of the zoning restriction? *Applicant currently has property under contract and the zoning restrictions are known.*
5. Can the problem be solved in some other manner other than the granting of a variance? *In order to accommodate this parking plan variances are necessary. Fewer spaces or a different configuration might be able to meet code.*

The commission discussed the required parking on site and the adjacent parking area.

Greg Metzger, applicant, stated he has been in the business 38 years, and knows his customers and traffic. He wants to make the parking convenient for his customers with his employees parking in the rear. The rear parking drive approach is proposed for 90 feet wide for large delivery trucks. There is virtually no traffic in the rear area.

Director Sanborn stated the City's engineer is currently reviewing the storm water management for the entire site.

MEMBER PHILLIPPI MOVED, MEMBER GUIDONE SECONDED, and the Motion carried to approve the variance of section 1157.03(d) for a drive approach 15 ft from the center of the curve since this will be an enhancement for the overall business site. The vote: all yea.

MEMBER PHILLIPPI MOVED, MEMBER GUIDONE SECONDED, and the Motion carried to approve the variance of section 1157.03(d) for the 90 ft wide drive approach since this will be an enhancement for the overall business site. The vote: all yea.

MEMBER PHILLIPPI MOVED, MEMBER GUIDONE SECONDED, and the Motion carried to approve the variance of section 1157.03(e) for the landscaped buffer as requested since this will be an enhancement for the overall business site. The vote: all yea.

MEMBER PHILLIPPI MOVED, MEMBER GUIDONE SECONDED, and the Motion carried to approve the variance for no internal drainage for the parking lot since this will be an enhancement for the overall business site and it will be included in the storm water plan for the entire site. The vote: all yea.

AB 07-11 JOHN JERVIS, OWNER, 1417 W MAIN STREET, FOR A VARIANCE OF SECTION 1151.16(B) FOR AN ACCESSORY BUILDING OCCUPYING MORE THAN 30% OF THE REQUIRED REAR YARD (41% PROPOSED).

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

LOUISVILLE ZONING BOARD OF APPEALS JUNE 12, 2007 PAGE 5

EXISTING CONDITION

Single-Family Residence

Parcel: B-5
North: R-2 (park)
South: B-5
East: B-5
West: B-5

BACKGROUND INFORMATION

- The subject lot is substandard measuring 47 ft X 150 ft
- An existing accessory building measuring 16 ft X 24 ft is located on the lot
- The applicant proposes to demolish the existing building and build a 24 ft X 24 ft accessory building
- Section 1151.16(b) states that accessory buildings which are not a part of the main building shall not be located closer than 15 ft to the main building and may be built within 8 ft of the rear and side lot lines
- The proposed accessory building would be 10 ft from the east lot line; 13 ft from the west line; 17 ft from the north (rear) lot line and 37 ft from the house
- Section 1151.16(b) goes on to state that accessory buildings not part of the main structure shall not occupy more than 30% of the required rear yard
- In a previous decision, the Zoning Board of Appeals determined “required rear yard” to be the prescribed rear yard setback for the zoning district times the lot width. In this case that area is 30 ft x 47 ft = 1410 sf

- 30 % of the required rear yard would be 423 sf (maximum allowable accessory buildings)
- The existing accessory building is 308 sf. The proposed accessory building is 576 sf and would occupy 41% of the required rear yard

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 requirements for accessory buildings are no more burdensome for this substandard lot than for other lots.*
- Conditions justifying a variance arise from the characteristics of the property itself, not the personal situation of the owner. *The lot is a substandard lot with a single-family house and a 1-car garage. The applicant wishes to build a standard 2-car garage.*
- 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:

LOUISVILLE ZONING BOARD OF APPEALS JUNE 12, 2007 PAGE 6

1. Can there be a beneficial use of the property without the variance? *The denial of this request will not render the lot unusable.*
Is the variance substantial? *The proposed accessory building would occupy 41% of required rear yard as opposed to the 30% permitted by code.*
2. Will the essential character of the neighborhood be substantially altered or adjoining properties suffer a substantial detriment? *The overall character of the immediate area would not be largely impacted by the construction because the accessory building would meet all setback requirements.*
3. Did the property owner purchase the property with knowledge of the zoning restriction? *Unknown*
4. Can the problem be solved by some other manner other than the granting of a variance? The “problem” is due to the wishes of the owner to construct a larger accessory building on the lot.

John Jervis, owner, stated the existing garage is old and falling down, he has 2 cars so needs a 2-car garage. A new garage would look nicer than the old one.

MEMBER GUIDONE MOVED, MEMBER PHILLIPPI SECONDED, and the Motion carried to approve the variance as requested based on the applicants comments and the variance is for 11%. This garage meets the required setbacks. The vote: all yea.

AB 07-12 TYLER LAB, OWNER, 1139 WINDING RIDGE AVE, VARIANCE OF SECTION 1161.04(D) TO LOCATE A FENCE TALLER THAN 2 FT. IN THE REQUIRED SIDE/FRONT YARD (6 FT. PROPOSED).

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

EXISTING CONDITION

Single-Family Residence

Parcel: R-1

North: R-1

South: R-1

East: R-1

West: R-1

BACKGROUND INFORMATION AND ZONING REQUIREMENTS

- The subject lot is located at the corner of Winding Ridge Ave and Woodmore Street
- The subject lot is slightly irregular in shape measuring approximately 148 ft X 133 ft
- Section 1161.04(d) states that fences in front yards shall not exceed two feet in height

LOUISVILLE ZONING BOARD OF APPEALS JUNE 12, 2007 PAGE 7

- For the purposes of setbacks, corner lots are typically considered to have two front yards both requiring a 40 ft setback
- The applicant proposes to install a 6 ft high fence along the corner/side lot line approximately 32 ft from the property line on Woodmore Street

DISCUSSION

It is common for cities to regulate front yard obstructions as a means of promoting safety, security and visibility. On corner lots the issue of visibility is of particular concern due to the street intersection. As noted above, section 1161.04 (d) of the Louisville Zoning Code limits fences in front yards to two feet. In the case of corner lots, this restriction also applies to the corner side yard.

Section 1151.14 of the Code also addresses visibility at corner lots. It states that “no obstruction to view in excess of two feet in height shall be placed on any corner lot within a triangular area formed by the street right-of-way lines and a line connecting them at points thirty feet from the intersection of the street lines ... so as not to obstruct clear view of motor vehicle drivers.” The “vision triangle” concept is a common method of ensuring clear visibility.

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 other corner lots in the city.*

Conditions justifying a variance arise from the characteristics of the property itself, not the personal situation of the owner. *The subject lot is a standard lot in an R-1 zoning district. It is regular in shape and does not have any particular topographic constraints.*

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.

1. Can there be a beneficial use of the property without the variance?
Yes, the lot still accommodates residential uses.
2. Is the variance substantial? *The corner/side yard setback would be 32 ft from Woodmore running 41 ft from the rear of the house toward the west property line*
3. Will the essential character of the neighborhood be substantially altered or adjoining properties suffer a substantial detriment? *No, the general character of the area is residential*
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 fence could be placed along the 40 ft setback line eliminating the need for a variance.*

LOUISVILLE ZONING BOARD OF APPEALS JUNE 12, 2007 PAGE 8

- The current condition at the subject property does not preclude compliance with the fence height requirement – it is possible to erect a 2 ft fence or place the 6 ft fence 40 ft from the corner/side lot line; and
- The placement of a 6 ft fence 32 ft in from the corner/side lot line would be outside of the vision triangle and not obstruct visibility

Director Sanborn clarified that the pool is at least 48 inches in height so a fence is not required.

Tyler Lab, owner, stated that they do want a 6 ft fence, there will be more room for the new playset and give the kids more room to play. If they place the fence right off the corner of the house, it will really reduce the play area for the kids. This request will give them 8 more feet.

MEMBER PHILLIPPI MOVED, MEMBER GROSSWILLER SECONDED, and the Motion carried to deny the requested fence variance since there is no reason to grant it based on the placement of a swing set or play area. The vote: all yes.

AB 07-13 STEPHEN & JOAN MANGINO, OWNERS, 503 N WALNUT STREET,
FOR A VARIANCE OF SECTION 1151.16(B) FOR AN ACCESSORY BUILDING
OCCUPYING MORE THAN 30% OF THE REQUIRED REAR YARD (59%
PROPOSED).

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

EXISTING CONDITION

Single-Family Residence

Parcel:	R-3
North:	R-3
South:	R-3
East:	R-3
West:	R-3

BACKGROUND INFORMATION

- The subject lot is a substandard lot measuring 62.2 ft X 110 ft
- The applicant also owns the contiguous lot of record directly to the west (rear) of the subject lot. That lot measures 63 ft X 155 ft and has no street frontage
- An existing accessory building on the subject lot measures 19 ft X 18 ft. The applicant proposes to attach a 24 ft X 24 ft addition to the existing accessory building 24 ft x 6 ft of which extends on to the adjoining lot to the west
- Section 1151.16(b) states that accessory buildings which are not a part of the main building shall not be located closer than 15 ft to the main building and may be built within 8 ft of the rear and side lot lines

LOUISVILLE ZONING BOARD OF APPEALS JUNE 12, 2007 PAGE 9

- The existing accessory building with the addition would be approximately 30 ft from the house
- The existing structure is approximately 10 ft from the south lot line and encroaches on the lot to the west
- The structure with the addition would be 8 ft from the north lot line and encroach 6 ft onto the lot to the west
- Section 1151.16(b) goes on to state that accessory buildings not part of the main structure shall not occupy more than 30% of the required rear yard
- In a previous decision, the Zoning Board of Appeals determined “required rear yard” to be the prescribed rear yard setback for the zoning district times the lot width. In this case that area is 25 ft (minimum rear yard depth for a substandard lot) x 62.2 ft = 1555 sf

- 30 % of the required rear yard would be 466.5 sf (allowed accessory buildings)
- The existing accessory building is 342 sf. The proposed accessory building addition is 576 sf for a total area of 918 sf or 96.78% greater than permitted with 144 sf over the lot line to the west

DISCUSSION

1. 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 requirements for accessory buildings are no more burdensome for this lot than for other substandard lots in the city.

2. Conditions justifying a variance arise from the characteristics of the property itself, not the personal situation of the owner.

The lot is a substandard lot, measuring 62.2 ft x 110 ft. It contains a two story single-family structure and a 19 ft x 18 ft accessory building. The existing accessory structure with the addition will exceed the square footage allowed by code by 451.5 sf.

3. 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?

The denial of this request will not render the lot unusable.

2. Is the variance substantial?

The existing and proposed accessory structures combined would result in 59% required rear yard coverage.

3. Will the essential character of the neighborhood be substantially altered or adjoining properties suffer a substantial detriment?

The overall character of the immediate area would not be largely impacted by the addition but the proposal would create a 43 ft barrier across the lot

LOUISVILLE ZONING BOARD OF APPEALS JUNE 12, 2007 PAGE 10

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?

The “problem” is due to the wishes of the owner to construct an addition on the existing garage making the structure larger than permitted by code. The “problem” is self-made.

The commission discussed the property being 2 separate lots, a possible replat, that the lot is land locked, the lot has no frontage so is unbuildable.

Steve Mangino, owner, stated they will replat if they have to. The lot is landlocked and has no access. They want to alleviate the traffic in their driveway. They have 5 cars, plus more when his son is home. He agreed they would have to stay within the 15 ft height allowed by code. Storage is also a concern for them. They shared pictures of the site with board.

Director Sanborn stated her concern for access to the rear of the lot, the proposed garage will leave only a few feet on each side of the lot. She also verified the requirement that all accessory buildings on the site be included in the proposal.

MEMBER GUIDONE MOVED, MEMBER PHILLIPPI SECONDED, and the Motion carried to grant the variance as requested since the rear lot is not buildable since it has no frontage, and the lot if more rectangular in shape would not have needed a variance. The vote: all yea.

AB 07-14 PARADISE UNITED CHURCH OF CHRIST, 619 EAST MAIN STREET, VARIANCE OF SECTION 1153.01(1) FOR FRONT, REAR AND SIDE YARD SETBACKS LESS THAN THE REQUIRED 100 FT (36 FT FRONT, 0 FT AND 10 FT SIDES AND 9 FT REAR SETBACKS PROPOSED) FOR AN EXPANSION OF A CONDITIONALLY PERMITTED USE IN AN R-3 ZONING DISTRICT.

See Exhibit A

Respectfully submitted,

Sue Mendenhall
Deputy City Clerk