

Board of Zoning Adjustment

Staff Report

June 27, 2022



Case No:	22-APPEAL-0003
Project Name:	Greenwood Avenue Appeal
Location:	2210 Greenwood Avenue
Owner/Appellant:	Legacy Property Solutions, LLC/Fred Newman
Jurisdiction:	Louisville Metro
Council District:	4 – Jecorey Arthur
Case Manager:	Chris French, AICP, Planning & Design Supervisor

REQUEST(S)

- Appeal of an administrative decision regarding nonconforming rights for a duplex in an R-5 zoning district.

CASE SUMMARY/BACKGROUND

On April 22, 2022, the Appellant filed a nonconforming rights application for a duplex in an R-5 single family zoning district. Based on the evidence submitted by the appellant and the information available in the office of Planning and Design Services it was determined that staff did not have sufficient evidence that a duplex use existed in 1971 and that the use continued forward to the present day. Therefore, staff denied the request for nonconforming rights on April 28, 2022.

The Appellant filed the appeal case on May 20, 2022; the appeal was filed within 30 days of the administrative official's action; therefore, this request is a timely appeal.

STAFF ANALYSIS/FINDINGS

The following sections of the LDC are applicable to this case:

Section 1.2.2 Definitions

As currently defined in LDC Sec. 1.2.2, the following definitions are relevant to the appeal:

Dwelling, Two Family (or Duplex) - Any group of two dwelling units occupying a single lot or building site, whether composed of one or more than one principal building. This term includes Conventional, Average-Lot, Clustered and Zero-Lot-Line two family dwellings.

Dwelling Unit - Either a single room or two (2) or more connected rooms used exclusively as a single unit and intended for occupancy for no less than 30 consecutive days or more by one (1) Family, and providing complete, independent living facilities (which at a minimum includes permanent provisions for living, sleeping, eating, cooking, and sanitation which are accessed independently). Notwithstanding the provisions of this definition, where permitted, short term rentals may be occupied by more than one family and for less than 30 consecutive days. This term does not include Hotel or Motel rooms, Extended Stay Lodging facilities, Nursing Home

rooms, or Assisted Living Residence units, or any other use more specifically defined in this Land Development Code.

Nonconformity (or Nonconforming) -An activity or a building, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located.

According to Jefferson County PVA records, the property type is listed as 2-Family Duplex. The PVA lists the structure as built in 1919.

Although the property has been consistently zoned as single-family, the structure was built prior to zoning regulations going into effect.

The directory findings were consistent as shown in the table below:

Directory Findings:

Year	# Directory Listings
1970	1
1971	1
1977	1
1981	1
1987	Vacant
1991	1
1997	1
2005	No current listing
2010	No current listing
2015	No current listing
2017	1
2019	No current listing
2021	No current listing

In addition, staff noted a second story addition and changes to the number of the doors at the front of the structure. Based on a review of Zillow, Google Maps, and LOJIC, it appears that these changes occurred since 2020 (see nonconforming rights case materials attached to the agenda item). The Appellant told staff that the structure always had two units and that the changes made to the property did not impact the number of units within the structure.

The Appellant's basis of appeal is based on the fact that the property was listed as a duplex when they bought the property in 2020 and that the PVA lists the property as a duplex. The applicant also identified that the property has two separate gas meters and electrical meters. In addition, the Appellant has emails from LG&E that the use had two units as far back as 2009 and an email from an electrical contractor stating that the electrical meters were installed in the 1960s (see appeal case materials attached to the agenda item).

Staff Conclusions

Staff did not have sufficient information in the review of the nonconforming rights case that two dwelling units existed on the lot continuously since 1971. The Appellant has not submitted additional information to change staff's previous conclusion. Therefore, staff believes that the original decision was correct, and the property does not have established nonconforming rights for two dwelling units on one lot in an R-5 zoning district.

Standard of Review

Pursuant to LDC 11.7.3 and KRS 100.257, the Board of Adjustment shall have the power to hear and decide cases where it is alleged by the applicant that there is an error in any order, requirement, decision, grant, or refusal made by an administrative official in the enforcement of the zoning regulation.

Based upon the file of this case, this staff report, and the evidence and testimony submitted at the public hearing, the Board must determine:

1. Did a duplex use exist on the lot in 1971?
2. If yes to question 1, did this use of the property continue to the present day?

If the Board answers yes to the first two questions listed above, then an approval of such a motion would overturn staff's decision.

If the Board answers no to one or both questions, then the Board would concur with the staff, and the approval of such motion would affirm staff's decision.

RELATED CASES

22-NONCOMFORM-0010 – The administrative decision in this case is the subject of the appeal.

INTERESTED PARTY COMMENTS

Staff has not received any interested party comments.

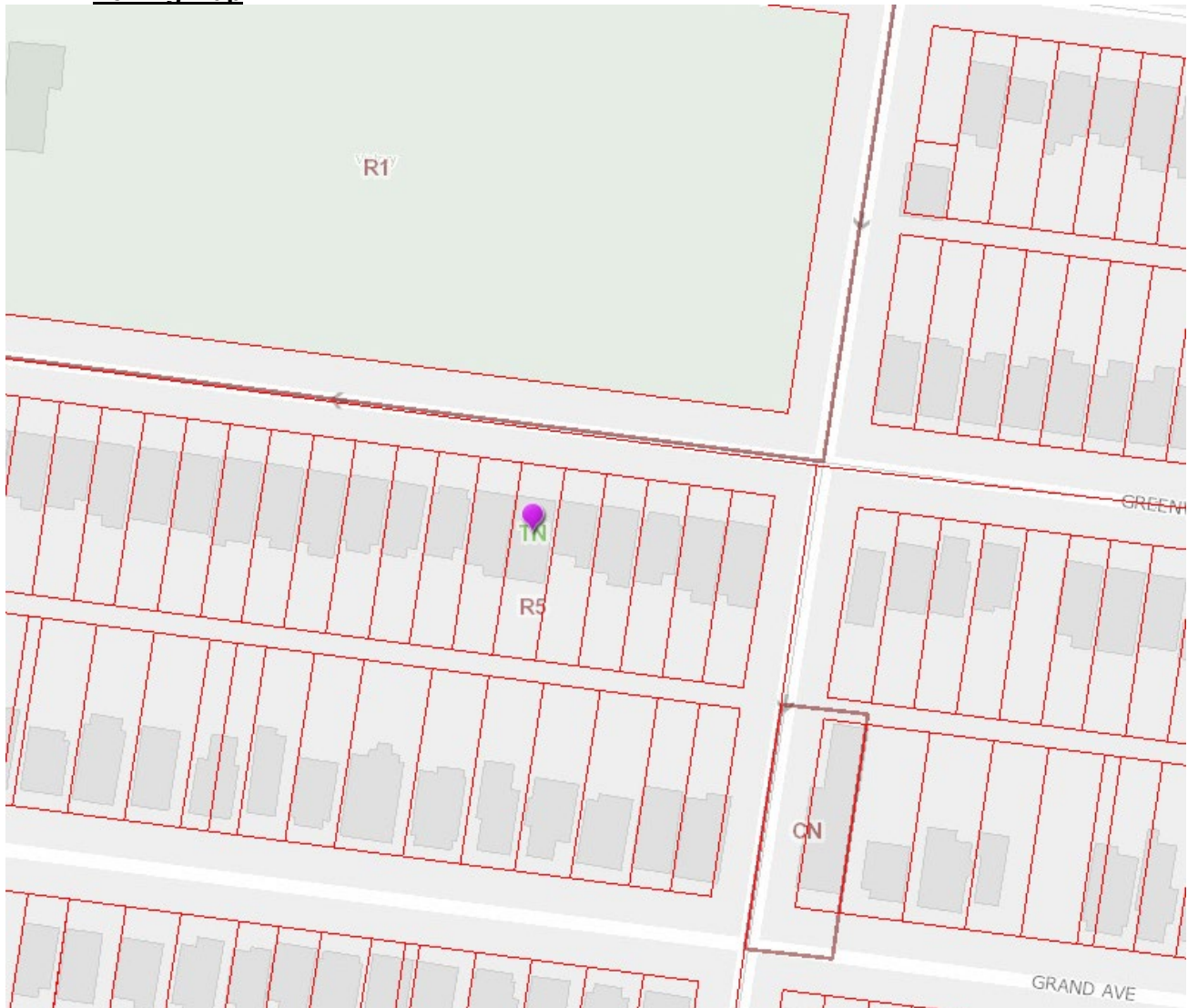
NOTIFICATION

Date	Purpose of Notice	Recipients
6/9/2022	Notification of appeal of an administrative decision	Adjoining property owners, Appellant, and PDS staff
6/13/2022	Notification of appeal of an administrative decision	GovDelivery for Council District
6/10/2022	Legal ad for notification of appeal of an administrative decision	Courier Journal - published in paper by Appellant or Representative

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Photos

1. **Zoning Map**



2. Aerial Photograph



3. Site Photos



Front of Property



Utility Meters



Two front doors



Rear Yard