

Board of Zoning Adjustment
Staff Report
 May 20, 2019



Case No:	19VARIANCE1029
Project Name:	Big Bar Expansion
Location:	1200 Bardstown Road
Owner(s):	Bigger is Better, LLC
Applicant:	Kevin Bryan
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Zach Schwager, Planner I

REQUEST

- **Variance** from Land Development Code table 5.2.2 to allow a structure to encroach into the required rear yard setback.

Location	Requirement	Request	Variance
Rear Yard Setback	5 ft.	2 ft. 11 in.	2 ft. 1 in.

CASE SUMMARY/BACKGROUND

The subject property is located in the Tyler Park neighborhood and in the Bardstown Road Overlay District, along the west side of Bardstown Road at the intersection with Lucia Avenue. The property currently contains a one-story and a two-story commercial structure, which does not extend to the rear of the property. The applicant is proposing an addition onto the rear of the two-story structure that will encroach into the rear yard setback.

There is no alley access to the lot. The rear property line abuts a multi-family residential use. Currently, the rear yard of the property is a grassy area that is above grade.

The proposed addition has received Bardstown Road/Baxter Avenue Overlay Committee approval under case number 19BROD1004.

STAFF FINDING

Staff finds that the requested variance is adequately justified and meets the standard of review.

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 table 5.2.2 to allow a structure to encroach into the required rear yard setback.

CONDITION OF APPROVAL:

#1) The applicant must obtain a parking waiver or a joint parking agreement prior to construction plan approval.

PREVIOUS CASE

The Board of Zoning Adjustment approved a related variance request for the one-story portion of the structure under case number 18VARIANCE1035 on May 7, 2018.

TECHNICAL REVIEW

- No technical review was undertaken.

INTERESTED PARTY COMMENTS

No interested party comments were received.

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 as there is no public access to the rear of the property.

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

STAFF: The requested variance will not alter the essential character of the general vicinity as the proposed renovations have received Overlay approval.

- (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 as the proposed encroachment is into a rear yard with no alley and no public access.

- (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 proposed addition is setback further from the previously approved variance.

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 arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the lot is smaller than the majority of the surrounding lots on Bardstown Road.

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 may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by rendering the needed expansion of the existing building infeasible, while protecting a rear yard that does not abut an alley.

3. 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.

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.

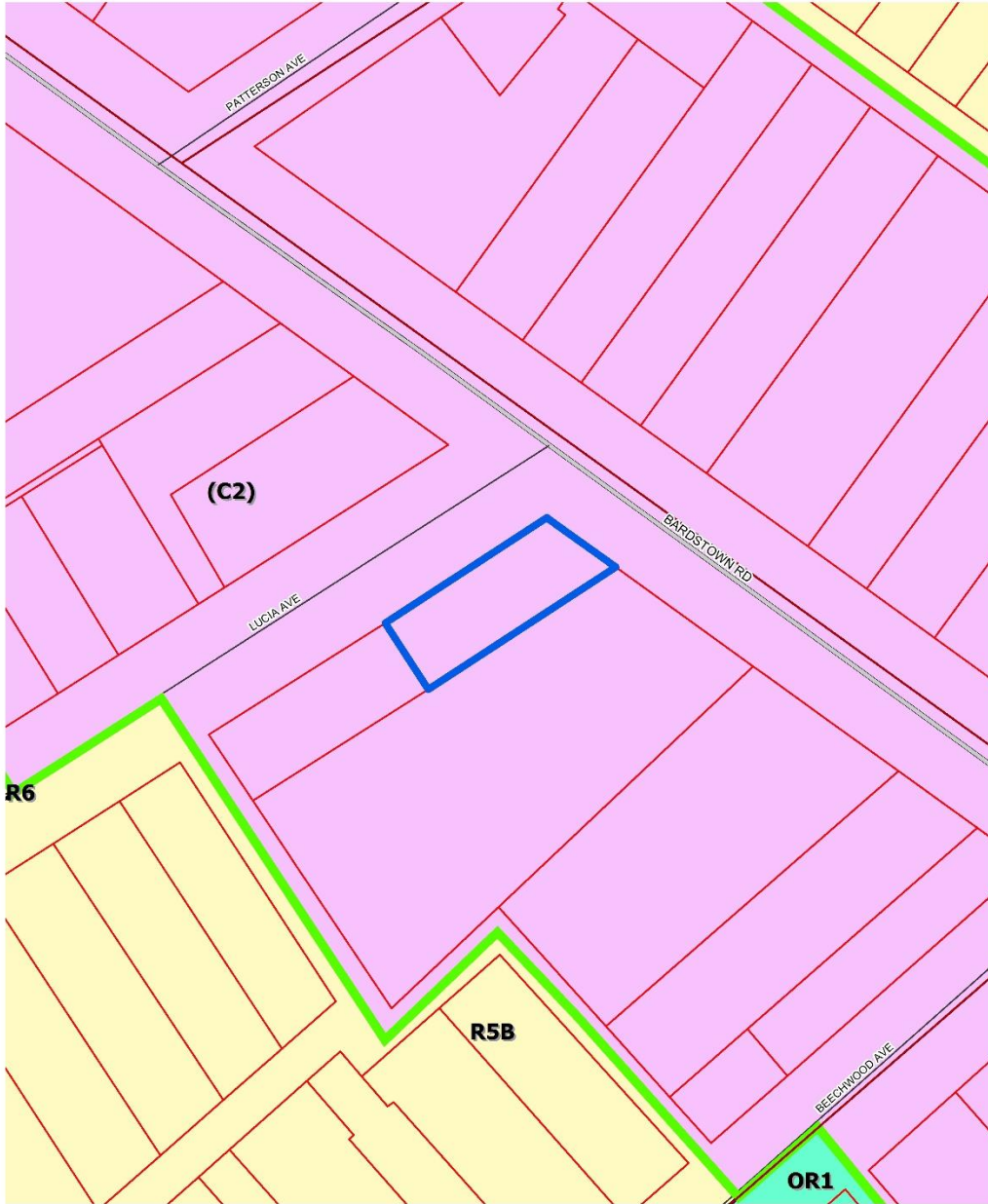
NOTIFICATION

Date	Purpose of Notice	Recipients
04/11/2019	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 8
05/02/2019	Hearing before BOZA	Notice posted on property

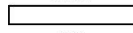
ATTACHMENTS

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

1. Zoning Map



1200 Bardstown Road
feet



60

Map Created: 5/9/2019

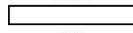


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2. Aerial Photograph



1200 Bardstown Road
feet



60
Map Created: 5/9/2019



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5. Site Photos



The front of the subject property.



The property to the left of the subject property.



The property to the right of the subject property across Lucia Avenue.



The properties across Bardstown Road.



Rear of the subject property.



The existing rear yard as seen from the Lucia Avenue sidewalk.

6. Overlay Permit



**Bardstown Road/Baxter Avenue Corridor
Review Overlay District**

**Report of the Bardstown Road Baxter Avenue
Overlay Committee**

Case No: 18BROD1003
Classification: Non - Expedited

GENERAL INFORMATION

Property Address: 1202 Bardstown Road

Applicant: Kevin Bryan
1202 Bardstown Road
Louisville, KY 40205
kevinjbryan@yahoo.com
502-552-8546

Owner: Orbin Greene; Chris Cook Holding
12008 Log Cabin Lane
Anchorage, KY 40223
jdgreene@twc.com
502-291-3001

Architect: Ben Palmer-Ball, Jr.
8203 Old Westport Road
Louisville, KY 40222
bpalmerball@earthlink.net
502-345-9559

Estimated Project Cost: \$200,000.00

Description of proposed exterior alteration:

The applicant seeks approval for proposed renovations to the existing one story building located at 1202 Bardstown Road. Renovations include a two story building addition and a multi-level rooftop outdoor deck with partial cover provided by a canopy. The deck is proposed to project beyond the front façade of the building and extend over the front patio area. A spiral stair will connect to the rooftop deck with the street level patio.

The current footprint of the building is approximately 675 sf. The two story addition will provide an additional 475 square feet of conditioned space and 740sf of outdoor area. At the rear of the building and behind the neighboring structure at 1200 Bardstown Road, a new sidewalk and stairs are proposed to provide pedestrian access to Lucia Avenue from the building. The first floor of the rear addition will have two new accessible restrooms, an office, and egress stairs. The second story of the addition will also have

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two restrooms, storage space, and service bar area. Roll up doors will provide access from the bar area in the addition to the multi-leveled roof top deck. A portion of the roof deck is proposed to be elevated and be covered with an operable louvered canopy system. The addition spans the length of the first floor and extends over the first floor patio area with a steel spiral staircase providing access to the patio below. The addition is proposed to be a steel framing system with painted checkerboard flooring. A minimalist glass railing is shown at the second story. Additional materials proposed are brick veneer and a new standing seam metal roof system over the rear addition.

The existing front entrance and roll up doors will remain. The existing awning will be removed.

Communications with Applicant, Completion of Application

The staff met with the applicant prior to submittal of application to discuss the Overlay process and guidelines. The application was received by Develop Louisville Staff on February 19, 2016. The application was determined to be complete and classified as requiring Non- Expedited Review by Urban Design staff on March 1, 2016. A hearing of the Bardstown Road Baxter Avenue Review Overlay Committee is scheduled for March 20, 2018 at noon.

FINDINGS

Guidelines

The following design guidelines, approved for the Bardstown Road/Baxter Avenue Corridor Review Overlay District, are applicable to the proposed exterior alteration **Building Design, Site Planning, Parking and Historic Preservation**. The report of the Overlay Staff's findings of fact and conclusions with respect to these guidelines is attached to this report.

The following additional findings are incorporated in this report:

Site Context

Currently 1202 Bardstown Road is home to the bar "Big Bar". The one story building is approximately 675sf and has a front patio along Bardstown Road with a low fence and planters. 1202 Bardstown Road is zoned C2 and is within the Traditional Marketplace Corridor Form District. The site is surrounded by other one and two story commercial structures that face Bardstown Road. The property is located on the south side of Bardstown Road, east of Lucia Avenue. The one story masonry building is directly adjacent to the two story masonry commercial building at 1200 Bardstown Road. Both buildings were built in 1900. A surface parking lot and associated multi-family building is adjacent to the east of the property. The property is landlocked to the with no direct vehicular access.. The site currently does not provide on-site parking. Although the proposed project does not alter the site so as to affect existing parking, the addition of square footage will increase the amount of parking spaces required by the Land Development Code. The applicant will need to obtain approvals for required parking through the planning & zoning processes.

Background

The storefront of 1202 Bardstown Road was remodeled in 2012 under **17234-BR** to include roll up doors and brick facade. In 2016, **16BROD1002** was approved for the

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installation of a shadow box fence along the west side of the patio for privacy and screening.

Presentation & Discussion- March 20, 2018

The Bardstown Road Review Overlay Committee Hearing met at 12:00pm on March 20, 2018 in Room 302 of the Metro Development Center. Staff member Burcum Keeton and Urban Design Administrator David Marchal were in attendance. Committee members in attendance were: Ken Baker (Chair), Ann Richard, Sally McMahon, Emily Paprocki, and Nick Morris. The applicant and architect were present. The Committee chose Mr. Ken Baker as their interim Chairperson. The staff report was presented by Burcum Keeton, followed by the applicant's project description. The applicant's architect explained that the addition would allow for much needed restrooms, storage, and bar and lounge space. The Committee requested clarification on the materials proposed to be used on the roof lounge structure. Mr. Palmer-Ball explained that commercial grade materials such as steel and glass would be used. A discussion followed on the appropriateness of the spiral stairs. The Committee expressed concern over the size, location, materials, and safety of the stairs. The Committee asked if and how access to the stairs would be controlled and maintained.

Chair Baker asked if a parking agreement was in place with neighboring properties. Mr. Bryan stated that they were in discussions with neighboring property owners. Urban Design Administrator stated that the applicant would also need an access agreement from the neighboring property in reference to the addition at the rear of the subject property and property adjacent.

Chair Baker suggested that the Committee discuss Site Planning Guideline #14, which references deck construction on front facades. The Committee agreed that the intent of the guideline was to prevent residential style decks being built directly in front of building facades and over historically residential front yards. The importance of materials was discussed. Ms. Paprocki recommended the applicant come back with drawings showing the spiral staircase being removed, as the stairs blocked much of the front building façade. The applicant was amenable to that suggestion. The committee requested further detailed drawings showing the building in context with its surroundings and in color.

Public Testimony

Highlands Resident Debra Richards Harlan submitted a letter which was read into record; neither in support nor against the submittal.

Committee Decision

After receiving staff report, applicant comments, public testimony, and discussion, the Committee proceeded with recommendations for approval. Ms. Richard made a motion to recommend deferral of the project to allow the applicant to submit revised drawings for review. The Committee requested drawings showing the option of removing the spiral stairs. Drawings to be in color and showing alternate perspectives. Mr. Morris seconded the motion. The motion passed unanimously. The hearing was continued to April 2, 2018.

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Presentation & Discussion- April 2, 2018

The Bardstown Road Review Overlay Committee Hearing met at 12:00pm on April 2, 2018 in Room 302 of the Metro Development Center. Staff member Burcum Keeton and Urban Design Administrator David Marchal were in attendance. Committee members in attendance were: Ken Baker (Acting Chair), Ann Richard, Di Tran, Emily Paprocki, and Nick Morris. The applicant and architect were present.

The applicant shared a new submittal which included renderings and perspectives. The spiral staircase had been removed. Materials included a two tone brick with a banded pattern, a standing seam metal roof, and a steel glass railing over the roof lounge.

The Committee discussed Guideline 14 again and decided to issue the Guideline a +/- in the checklist. The Committee agreed that the use of commercial grade materials (which were considered to be appropriate in this case) and the fact that the deck was transparent and did not block the front façade of the building would be a (+). The fact that the structure met the definition of a deck with supports led the Committee to issue the checklist item a (-) as well.

Public Testimony

Highlands Resident John Addington submitted a letter which was shared into record expressing concern over the lack of parking in the area to support the addition.

Committee Decision

After receiving staff report, applicant comments, public testimony, and discussion, the Committee proceeded with recommendations for approval. The Committee was comfortable with the materials and design used in the deck structure and the fact that it did not block the front façade of the building. Ms. Paprocki requested that Overlay Staff further clarify the definition of 'deck' and 'balcony' and revise Guideline #14 accordingly to reflect the definitions.

Ms. Paprocki made a motion to recommend approval of the project. Ms. Richards seconded the motion. The motion passed unanimously.

CONCLUSIONS

The Overlay Guidelines encourage reuse of existing structures. The current building size and footprint has limited the owner's capacity for business. By expanding and creating a second story, the business will be able to accommodate more customers and provide accessible restrooms for patrons.

The proposed building design has façade elements that are in keeping with the characteristics of the Corridor. Although the addition of a roof deck with spiral stairs will create a unique presence along this portion of Bardstown Road, the proposed design conflicts with **Building Design Guideline 11** and **Site Planning/Parking Design Guideline 14**. Both Guidelines state that *'decks or similar structures shall not be constructed in front of a building's street facing façade'*. However, in this case, the deck will be constructed on the roof of the existing building, and will include a frame support structure extending over the ground floor patio, creating the appearance of a second story balcony rather than a roof top deck structure, or "deck in front of the building". The roof top deck will project over the ground floor patio and include a frame support structure but is not a "deck" as intended by the guidelines.

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The addition and deck are scaled to match the building's façade, and utilize appropriate and contemporary materials. The projection over the first floor patio extends the space to the property line and encourages pedestrian interaction at the street level. The louvered canopy portion is set back from the building façade and will be minimally visible from the street level.

Decision

Considering the information furnished, the Bardstown Road Baxter Avenue Overlay Committee finds that the proposal generally complies with the Overlay Design Guidelines and recommends approval of the application for an Overlay Permit.

Date

Ken Baker
Committee Chair

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