

**MINUTES OF THE MEETING
OF THE
LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE**

October 24, 2019

New Business

Case No. 19-ZONE-0060

Request: Change in zoning from R-5B to R-8A with Detailed District Development Plan and associated landscape Waiver

Project Name: Hepburn Avenue Rezoning

Location: 1400 Hepburn Avenue

Owner: Wilson Property Rentals LLC

Applicant: Wilson Property Rentals LLC

Representative: Bardenwerper, Talbott & Roberts

Jurisdiction: Louisville Metro

Council District: 8 – Brandon Coan

Case Manager: **Dante St. Germain, AICP, Planner II**

Notices were sent by first-class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:49:15 Dante St. Germain presented the case (see staff report and recording for detailed presentation.) Dante clarified the confusion in change in zoning, it is proposed to be R-8A not OR-2.

01:53:00 Commissioner Brown questioned there is not enough parking space on Hepburn Avenue. Beth Stuber replied Transportation Planning will be able to review this to double check the rules regarding parking frontage percentage. Commissioner Brown asked if the zoning were R-6 how many units could this site accommodate. Dante St. Germain replied 2 units.

01:54:22 Commissioner Mims inquired about the neighborhood/areawide plan. Dante St. Germain detailed the plan and this site was included. Commissioners, Joe Reverman, and Dante St. Germain discussed previous nonconforming uses of the site (see recording for detailed presentation).

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The following spoke in favor of the request:

Paul Whitty, 1000 N. Hurstbourne Parkway, Louisville, Kentucky, 40223

Summary of testimony of those in favor:

01:58:35 Paul Whitty presented a Power Point slide show (see recording for detailed presentation). Mr. Whitty noted the history, size of the lot, and site plan.

The following spoke in opposition to the request:

Rick Sweeney, 1328 Hepburn Avenue, Louisville, Kentucky, 40204

Joan Kallay, 1310 Highland Avenue, Louisville, Kentucky, 40204

Tom Kallay, 1310 Highland Avenue, Louisville, Kentucky, 40204

Elizabeth Jones Brown, 1408 Highland, Louisville, Kentucky, 40204

Lauren M. Hart, 1306 Highland Avenue, Louisville, Kentucky, 40204

Summary of testimony of those in opposition:

02:04:19 Rich Sweeney stated he questioned the measurements of the parking spaces. Mr. Sweeney detailed the history of the site and the nonconforming use of the site. He is opposed to the density of the residential property as 6 units is too many for this neighborhood.

02:10:34 Joan Kallay stated the higher density has an impact on the quality of living and property care. This would adversely affect property value and future zoning in the area.

02:11:55 Tom Kallay stated there was pushback at the neighborhood meeting and there hasn't been an update since then. Mr. Kallay questioned the density allowed for this site.

02:13:50 Elizabeth Jones Brown, board member of the original Highlands HOA, stated she is opposed to this plan. Ms. Brown noted this would start a precedent for unauthorized high-density duplexes to be given successful zoning change applications.

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02:15:17 Lauren Heart expressed concerns with homes being chopped up into small apartments for short term rentals as this neighborhood is family oriented.

Rebuttal:

02:18:39 Paul Whitty stated there will be a garage and on street parking and will be cleared up prior to the Planning Commission hearing. Joe Reverman stated the process for approving or denying this case for the Planning Commission. Joe Reverman, Paul Whitty, and Dante St. Germain discussed the size of the apartments (see recording for detailed presentation).

Commissioner Deliberation:

02:24:14 Commissioners' deliberation (see recording for detailed presentation).

An audio/visual recording of the Land Development and Transportation Committee meeting related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

The Committee by general consensus scheduled this case to be heard at the **December 19, 2019** Planning Commission public hearing.

LOUISVILLE BOARD OF ZONING ADJUSTMENT MINUTES

MARCH 20, 1989

DOCKET NO. B-24-89

Appellant: John Beckman

Subject: An appeal of a refusal issued by the City of Louisville Department of Inspections, Permits and Licenses of a Certificate of Occupancy for a change from one alleged non-conforming use (photographic shop) to another non-conforming use (grocery).

Premises affected: On property known as 1400 Hepburn Avenue and being in the City of Louisville.

Appearances-Interested:

Carol Robinson, Code Enforcement Coordinator, City of Louisville, 609 W. Jefferson Street, Louisville, Kentucky 40202

Appearances For Appellant:

Candy Culin, Attorney, 185 N. Bellaire Avenue, Louisville, Kentucky 40206, who submitted a letter from Pam Vetter, President of the Clifton Community Council, a petition with 47 signatures in support and 25 letters in support.

John Beckman, 2328 Sycamore Avenue, Louisville, Kentucky 40206.

Kevin McAdams, 100 N. Keats Avenue, Louisville, Kentucky 40206.

Judy Weinstock, 1607 Jaeger Avenue, Louisville, Kentucky 40205.

Sara Lynn Cunningham, 1428 Winter Avenue, Louisville, Kentucky 40204, who submitted one letter in support and a chart.

Jim Haswell, 1332 Hepburn Avenue, Louisville, Kentucky 40204.

Jerry Brown, President, Highland Neighborhood Association, 703 Rubel Avenue, Louisville, Kentucky 40204.

Appearances Against Appellant:

James Martain, 1316 Hepburn Avenue, Louisville, Kentucky 40204.

H.B. Dexter, 1306 Hepburn Avenue, Louisville, Kentucky 40204, who submitted a petition with 33 signatures in opposition.

Whit Boone, 1425 Hepburn Avenue, Louisville, Kentucky 40204.

Mr. Dexter spoke in rebuttal.

LOUISVILLE BOARD OF ZONING ADJUSTMENT MINUTES

MARCH 20, 1989

DOCKET NO. B-24-89 (continued)

Petitions were circulated during the public hearing and 18 signatures were received in support and 2 signatures in opposition.

On February 27, 1989, the City of Louisville Department of Inspections, Licenses and Permits issued a refusal of a Certificate of Occupancy for a change from one alleged non-conforming use to another non-conforming use as Section 8.3 of the Zoning District Regulations permits only the Board to authorize such a change in use.

On February 27, 1989, John Beckman filed an appeal from a refusal issued by the City of Louisville Department of Inspections, Permits and Licenses of a Certificate of Occupancy for a change from one alleged non-conforming use to another non-conforming use.

On March 20, 1989, at a meeting of the Board, a hearing was held on this case. A drawing showing the premises affected and the existing construction was presented to each Board member.

A staff member read the staff report. See Addendum for staff report in full.

A map of the site and surrounding area was shown.

Shari Cooper, Court Reporter, recorded the testimony given in the public hearing.

After the public hearing and a further discussion of the case by the members of the Board in open executive session, on a motion by Member Riehm seconded by Member Crawford, the following resolution was adopted:

WHEREAS, the Board finds that the property is zoned R-6 Residential Multi-Family, that the subject site is currently occupied by a photography shop and multi-family units, and no off-street parking is available for the present or proposed uses, and

WHEREAS, the Board finds that the subject site is completely surrounded by residential area and free from any commercial encroachment, that the present use is less obnoxious than the proposed use, and that the proposed use would change the character of the neighborhood and detract from the residential quality of life and value of property in the area, and

WHEREAS, the Board finds that Hepburn Avenue is an extension of Kentucky Avenue which generates heavy traffic, that the proposed use is a 900 to 1000 member co-op and, because of the additional

LOUISVILLE BOARD OF ZONING ADJUSTMENT MINUTES

MARCH 20, 1989

DOCKET NO. B-24-89 (continued)

employees and customers utilizing the facility, the proposed use would generate more traffic than the present use, that there are multi-family dwellings in the area, a majority of which do not have garages, that the on-street parking generated by the proposed use would be a contributing factor to traffic congestion, and that loading and unloading of deliveries to the site would further agitate an already congested traffic condition, and

WHEREAS, the Board finds that even if non-conforming rights exist on the site for the photographic shop, that the proposed change in use to a grocery store constitutes a change to a non-conforming use of a less restricted classification, that the new use is a more obnoxious use than the present use, and that the refusal issued by the City of Louisville Department of Inspections, Permits and Licenses of a Certificate of Occupancy was proper,

NOW, THEREFORE, BE IT RESOLVED, that the refusal of a Certificate of Occupancy issued by the City of Louisville Department of Inspections, Permits and Licenses is hereby UPHeld and the appeal is DENIED.

The vote was as follows:

YES: Members Crawford, Janes and Riehm.

NO: Members Deutsch and Griffin.

NOT VOTING: No One

LOUISVILLE BOARD OF ZONING ADJUSTMENT MINUTES

JUNE 17, 1991

DOCKET NO. B-86-91

Appellant: Cynthia Lawson

Subject: An appeal of an Order to Stop Use issued by the City of Louisville Department of Inspections, Permits and Licenses concerning the change of a commercial non-conforming use to a residential non-conforming use in an R-6 Residential zone.

Premises affected: On property known as 1400 Hepburn Avenue and being in the City of Louisville.

Appearances-Interested:

Maurice Wolford, Code Enforcement Officer, City of Louisville Department of Inspections, Permits and Licenses, 609 W. Jefferson Street, Louisville, Kentucky 40202.

Appearances For Appellant:

Cynthia Lawson, 3015 Sherbrook, Louisville, Kentucky 40205, who submitted slides, petitions with 40 signatures in support, and a tax block and lot number map.

James E. Martin, Captain of Block Watch, 1316 Hepburn Avenue, Louisville, Kentucky 40204.

Appearances Against Appellant:

No one.

On April 26, 1991, the City of Louisville Department of Inspections, Permits and Licenses issued an Order to Stop Use concerning the change of a commercial non-conforming use to a residential non-conforming use in an R-6 Residential zone.

On May 23, 1991, Cynthia Lawson filed an appeal of an Order to Stop Use issued by the City of Louisville Department of Inspections, Permits and Licenses upon the basis that the residential use is less obnoxious and in keeping with the character of the neighborhood.

On June 17, 1991, at a meeting of the Board, a hearing was held on this case. A drawing showing the premises affected and the existing and proposed construction was presented to each Board member.

By general consensus and with the consent of all those present for the hearing of this case, the Board voted unanimously to waive the reading of the staff report. The Board members had received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. See Addendum for staff report in full.

A map of the site and surrounding area was shown.

Shari Cooper, Court Reporter, recorded the testimony given in the public hearing.

After the public hearing and a further discussion of the case by the members of the Board in open executive session, on a motion by Member Janes, seconded by Member Crawford, the following resolution was unanimously adopted:

WHEREAS, the Board finds that the subject site is zoned R-6 Residential Multi-Family, that two residential units and one commercial unit are presently located on the site, and that the appellant is requesting approval to change the existing commercial use to residential, which is permitted in the R-6 zone, and

LOUISVILLE BOARD OF ZONING ADJUSTMENT MINUTES

JUNE 17, 1991

DOCKET NO. B-86-91 (continued)

WHEREAS, the Board finds from evidence and testimony submitted at the public hearing that the subject site was constructed in 1893 as a grocery store and residence and that the subject site has remained a combination of commercial and residential uses until April of 1991, therefore, non-conforming rights existed on the subject property for commercial activity, and

WHEREAS, the Board finds that the proposed change in use to residential is more restrictive than the prior non-conforming use as a photographic shop and that the proposed change in use constitutes abandonment and therefore terminates the non-conforming use status of C-1 Commercial activity, and

WHEREAS, the Board finds that the proposal is an appropriate transition and will stabilize and reinforce the residential character of the Highlands area, and that the proposal is in compliance with the neighborhood trends and the goals of the Highlands Community Development Association, and

WHEREAS, the Board finds that the Order to Stop Use issued by the City of Louisville Department of Inspections, Permits and Licenses was proper,

NOW, THEREFORE, BE IT RESOLVED, that the Appeal of the Order to Stop Use issued by the City of Louisville Department of Inspections, Permits and Licenses is hereby APPROVED.