

Board of Zoning Adjustment Staff Report

July 15, 2014



Case No:	14Appeal1002
Project Name:	Non-Conforming Use
Location:	2123 Grand Avenue
Owner:	Russell and Harriet Patrick
Appellant:	Russell and Harriet Patrick
Lot Size:	0.139 acres
Existing Zoning District:	R-5
Existing Form District:	Traditional Neighborhood
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Steve Hendrix, Planning Supervisor

RECONSIDERATION REQUEST

Background

On July 8, 2014, emails were received from Gretchen Bush and Susie Kehl requesting the Board to reconsider the June 16, 2014 decision.

On July 7, 2014, staff met with Gretchen Bush, Susie Kehl and Joseph DeBow concerning the case. Ms. Bush and Ms. Kehl are granddaughters of the Helen Bush, who was the previous owner of the property. Mr. DeBow is a resident of the street.

On June 16, 2014, the Board acknowledged that nonconforming rights exist for a multi-family (3 unit) structure.

On June 2, 2014, the Board's vote resulted in a tie. The case was closed to any new information and continued to June 16, 2014.

On April 7, 2014, the Appeal was initially presented to the Board. The case was continued in order for the appellant to obtain more documentation that the structure has had three units since 1971.

On February 21, 2014, an Appeal was filed of staff's decision.

On February 7, 2014, the appellants received a letter from the Department of Code and Regulations stating that nonconforming rights had not been established for three dwelling units at 2123 Grand Avenue.

On January 24, 2014, a Nonconforming Use Policy application was submitted to Planning & Design Services.

RECONSIDERATION POLICY

No appeal, application, or other matter acted upon by the Board may be reconsidered, except:

Upon motion by a member of the Board who voted with the majority.

(Allendorf, Liggin, Jarboe, Bergmann and Fishman).

Said motion must be seconded by any member of the Board either for reconsideration, or rehearing.

Such motions for reconsideration shall be made within thirty (30) days of the Board's original vote. (June 16, 2014).

Hearings on successful motions for reconsideration shall take place at the next regularly scheduled meeting of the Board.

(July 21, 2014).

ATTACHMENTS

1. Bush email
2. Kehl email
3. June 16, 2014 minutes.

Hendrix, Steve

From: Gretchen Bush <gretchenb12000@yahoo.com>
Sent: Tuesday, July 08, 2014 4:52 PM
To: Hendrix, Steve; Susie Kehl
Subject: Re: 2123 Grand Avenue

To: The Louisville Metro Zoning Board
Re: Property at 2123 Grand Ave.

I respectfully ask that the board please reconsider the case regarding the property at 2123 Grand Ave. due to new information provided to Emily Liu and Steve Hendricks on 7/7/14.

I apologize for not coming forward sooner, but didn't realize this was going on until my mother found a package on her back porch last Thursday (July 3) regarding the outcome of the hearing. When my father was first approached about the house, his attorney told him he didn't need to be involved that the original deed for the house (stating that it was indeed a single family dwelling) would speak for itself.

But, upon seeing that the photo on the deed had been switched out, and the signed affidavits regarding Helen Bush renting out her property during the 1960's and 1970's he felt the need to write a letter and send the photos that were presented to Mr. Hendrix and Emily Liou yesterday (July 7). The photos were taken by the realtor to use in the ads to sell the house. None of those pictures show a stairwell on the outside of the house, or gas meters on the outside.

Some of the affidavits claimed the property was rented in the 60's, but during that decade, my grandmother still had two children of her own living at home. Because of the false information contained in the affidavits, I contacted my cousin, Susie Kehl, to see if she had any photos of the house that could help clear the issue up. Instead of photos, Susie presented a video she had her brother-in-law take shortly before the house sold at auction showing that it was clearly a single-family dwelling.

I also spoke with my uncle, John Bush, yesterday, who lived on the property until the early 70's and is also willing to submit an affidavit confirming that his mother, Helen Bush, never rented the property.

You may contact John Bush at the following number, if needed: 814.323.1433

I appreciate your time and consideration in this matter,

Gretchen Bush
2734 Shippen Ave.
Louisville, KY 40206

RECEIVED
JUL 08 2014
PLANNING &
DESIGN SERVICES

14APPEAL1002

July 8, 2014

To: The Louisville Metro Zoning Board

Re: Property at 2123 Grand Ave.

I respectfully ask that the board please reconsider the case regarding the property at 2123 Grand Ave. due to new information provided to Emily Liu and Steve Hendricks on 7/7/14.

I am one of the granddaughters of the previous owner of the property, Helen Bush. I have provided a video of the property taken on 6/23/93, right before the house was auctioned off. The video shows the exterior and interior of the house at that time, and clearly shows that this was a single family dwelling. The stairs built onto the side of the house after the house was auctioned are not there in the video.

I apologize for just getting this information to the board, but I was unaware of what had been going on with this case. I would gladly have come forward earlier had I known about this situation.

I would also be happy to come before the board, and testify that my grandparents, or grandmother alone, *NEVER* rented rooms to anyone. This was always a single family dwelling until the house was auctioned in 1993.

Thank you for your time.

Respectfully,

Susie Kehl

101 E Southern Heights

Louisville, KY 40214

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JUL 16 2014
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14APPEAL1002

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

JUNE 16, 2014

NEW BUSINESS:

CASE NO. 14APPEAL1002

Request: An Appeal of a determination issued by the Department of Codes and Regulations concerning non-conforming use rights for a multi-family structure (3-plex).

Location: 2123 Grand Avenue

Appellant: Russell & Harriet Patrick
122 N. 42nd Street
Louisville, KY 40212

Representative: Dennis M. Clare, Esq.
745 W. Main Street
Louisville, KY 40202

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 6—David James

Staff Case Manager: Steve Hendrix, Planning Supervisor

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices located at 444 S. 5th Street).

On June 2, 2014, the Board's vote resulted in a tie. The case was closed to any new information and continued it to June 16, 2014.

This item was initially heard on April 7, 2014 and continued to June 2, 2014.

On June 16, 2014, at a meeting of the Board, a hearing was held on the case. A drawing showing the premises affected and the existing and/or proposed construction was presented to each Board member.

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

JUNE 16, 2014

NEW BUSINESS:

CASE NO. 14APPEAL1002

SUMMARY OF STAFF PRESENTATION:

Staff case manager, Steve Hendrix said the vote was tied at the last hearing, so the Board decided to close the case for any new information and continued to today. Staff mailed the CD's of all previous meetings, staff reports and minutes to the Board to review prior to today's hearing.

DELIBERATION:

The Board members had various opinions regarding the non-conforming use rights for the 3-plex and explained their rationale.

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning and Design Services offices. Please contact Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the June 16, 2014 public hearing proceedings.

On a motion by Member Liggin, seconded by Member Fishman, the following resolution was adopted:

WHEREAS, the Board finds from the file of this case, the staff report, the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that this appeal concerns non-conforming use rights for a multi-family dwelling (3-plex); and

WHEREAS, the Board finds that because the appellant submitted affidavits noting that rooms and separate dwellings were being rented in the 60's and 70's; and because the Caron's Directory is not a reliable source for information since it is mostly voluntary information from property owners'; and because the Louisville Fire Department inspected the site and noted that 3 apartments exist; and because the appellant testified that they purchased the tri-plex at auction advertised as "Income Potential" and believed that was what they were buying;

NOW, THEREFORE, BE IT RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **ACKNOWLEDGE** that non-conforming rights exist for a multi-family 3-plex; and

BE IT FURTHER RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Appeal.

) MINUTES OF THE MEETING)
OF THE
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT

JUNE 16, 2014

NEW BUSINESS:

CASE NO. 14APPEAL1002

The vote was as follows:

YES: Members Jarboe, Liggin, Fishman, Allendorf and Bergmann.

NO: Members Proffitt and Tharp.

NOT PRESENT FOR THIS CASE AND NOT VOTING: No one.

ABSTAINING: No one.