

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**November 21, 2016**

**BUSINESS SESSION**

**16VARIANCE1080**

Request:	To allow a rear addition to encroach into the side yard setback and reduction in the private yard area.
Project Name:	602 Baxter Avenue
Location:	602 Baxter Avenue
Area:	.07200 acres
Owner:	Libor Zacek
Applicant:	Bruce Rogers – CBR Architects PLLC
Representative:	Bruce Rogers – CBR Architects PLLC
Jurisdiction:	Louisville Metro
Council District:	4 – David Tandy
Case Manager:	Ross Allen, Planner I

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

**An audio/visual recording of the Board of Zoning Adjustment 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.**

**Agency Testimony:**

**00:11:18** Ross Allen presented the case (see Staff Report and recording for detailed presentation).

**The following spoke in favor of the request:**

Libor Zacek, 602 Baxter Avenue, Louisville, KY 40204

**Summary of testimony of those in favor:**

**00:16:55** The applicant, Libor Zacek, spoke to the Board regarding his request. He stated that Baxter Avenue is a busy street with several commercially zoned properties. This is one of only two houses on this block that is single family residential. He also withdrew the request for Variance #1 from the Staff Report.

**00:22:35 Deliberation**

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**00:26:07** On a motion by Vice Chair Jarboe, seconded by Board Member Howard, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the lot has no accessory structure and has a parking pad to the rear which is excluded from the private yard area calculation which requires 20% for residential lots (per the size of the total lot area less than 6,000 sf.) in the Traditional Neighborhood Form District. The addition poses no threat to the public health, safety, or welfare as a result of the applicant constructing with a one hour fire rated exterior wall, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the property is zoned C-1 and the use is a multi-family residential with three other parcels in the same block utilizing the entirety of their parcels, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since The addition will have a one hour fire rated exterior wall, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the applicant has proposed an addition, that by the LDC is permitted, on a C-1 zoned parcel but used as a residential use requires that a private yard area be present since the parcel resides in a Traditional Neighborhood Form District and will be used as a multi-family residential unit, and

**WHEREAS**, the Board further finds that the requested variance does not arise from special circumstances which generally apply to land in the general vicinity or the same zone because three other parcels residing in the same block are using the entirety of their lots, the applicant if allowed to reduce the private yard area to zero sf. would be similar to all but one parcel which has a private yard area to the rear of the principal structure, and

**WHEREAS**, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since the requirement of a private yard area is intended for residential uses within a Traditional Neighborhood Form District however, many parcels in the same block have none if any private yard area since the zoning types are C-1 and many are commercial/retail establishments, and

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**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the applicant has proposed an addition, that by the LDC is permitted, on a C-1 zoned parcel but used as a residential use requires that a private yard area be present since the parcel resides in a Traditional Neighborhood Form District and will be used as a multi-family residential unit; now, therefore be it

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1080, does hereby **APPROVE** the Variance from the Land Development Code section 5.4.1.D.3 to allow the proposed addition to the rear of the camelback shotgun house and cantilever deck (second floor) to reduce the private yard area by approximately 629.19 sf. (**Requirement: 5 ft., Request: 2 ft. 9 in., Variance: 2 ft. 3 in.**) based on testimony heard today and at the prior BOZA meeting, and on the **CONDITION** that the north side yard setback is met.

**The vote was as follows:**

**Yes: Fishman, Bergmann, Turner, Howard, Jarboe, Tharp, and Allendorf**  
**Absent: None**  
**Abstain: None**  
**No: None**