

# Board of Zoning Adjustment Staff Report

Decemebr 5, 2016



<b>Case No:</b>	16VARIANCE1089
<b>Request:</b>	Variance to reduce the private yard are to less than the required 30% of the total lot area.
<b>Project Name:</b>	1633 South Third Street Variance
<b>Location:</b>	1633 South Third Street
<b>Area:</b>	.22290 acres
<b>Owner:</b>	Gregory Likins – Diversified Designs Inc.
<b>Applicant:</b>	Gregory Likins – Diversified Designs Inc.
<b>Representative:</b>	Gregory Likins – Diversified Designs Inc.
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	6 – David James
<b>Case Manager:</b>	Ross Allen, Planner I

## REQUEST

- **Variance:** from the Land Development Code section 5.4.1.D.2 to reduce the private yard area to less than the 30% of the total lot area.

Location	Requirement	Request	Variance
<b>Private Yard Area (30% of total lot area)</b>	<b>3,850 sf.</b>	<b>2,350 sf. (61%)</b>	<b>1,500 sf. (39%)</b>

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to construct a 24' by 36' (864 sf.) second story addition onto the top of an existing three car garage (design approved 14COA1024 as of Feb. 12, 2014) as found at the rear of the property adjacent to the alley. The interior of the second story addition has an eat-in kitchen, living room off the kitchen, a bedroom, and a bathroom. The second story of the garage will have a 8' 4" x 36' roofed (covered) unenclosed deck facing the principal structure, resulting in the need for the variance for the private yard area reduction since the unenclosed deck is not built at or equal to the first floor elevation and is covering a portion of the private yard area between the accessory structure and principal structure. The proposed second story addition and deck have been approved by the Architectural Review Committee as of Oct. 19, 2016. The applicant stated that he had bought the home four months ago and is constructing the second story addition for a living space for his brother. The subject site is located with frontage (facing East) along South Third Street, the rear is to the alley, located between South Third Street and South Fourth Street, and is adjacent to a Single Family Residential to the North side and a Commercial property to the South.

### LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Single Family Residential	TNZD	Traditional Neighborhood
<b>Proposed</b>	Single Family Residential	TNZD	Traditional Neighborhood
<b>Surrounding Properties</b>			
<b>North</b>	Single Family Residential	TNZD	Traditional Neighborhood
<b>South</b>	Commercial	TNZD	Traditional Neighborhood
<b>East</b>	Multi-Family Residential	TNZD	Traditional Neighborhood
<b>West</b>	Multi-Family Residential/Vacant	TNZD	Traditional Neighborhood

## PREVIOUS CASES ON SITE

14COA1024: Certificate of Appropriateness to allow the construction of a three car garage approved as of Feb. 12, 2014.

## INTERESTED PARTY COMMENTS

No comments were received from concerned citizens.

## APPLICABLE PLANS AND POLICIES

Land Development Code (Oct. 2016)

### STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

- (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 since the proposed second story addition and accompanying second story unenclosed deck are constructed onto the garage/carriage house which is permitted within the TNZD. The deck faces interior to the applicant's 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 since at least five other accessory structures (garages/carriage houses) are located in the rear along the alley in the same block.

- (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 since the three car garage existed prior to the requested variance. The second story deck is interior to the applicant's property and is only visible towards the rear of the principal structure.

- (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 because residences in the general vicinity have garages carriage houses to the rear facing the alley and this is a permitted use within the TNZD zoning district. The second story deck is facing the rear of the principal structure and is interior to the applicant's property.

### ADDITIONAL CONSIDERATIONS:

1. The requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone since the deck will allow access to the proposed second story addition and is interior to the subject site.

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 would create an unnecessary hardship on the applicant since the proposed covered unenclosed deck is the only access to the proposed second story addition.

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 since the addition of the dwelling unit (second story) onto the existing garage requires the applicant to come into compliance with applicable requirements.

### TECHNICAL REVIEW

- None

### STAFF CONCLUSIONS

The variance request appears to be adequately justified and meets the standard of review. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standard of review for granting a variance as established in the Land Development Code (Oct. 2016) from section 5.4.1.D.2 to allow a an 8'4" x 36' second story unenclosed deck to reduce the private yard area by approximately 1,500 square feet.

### NOTIFICATION

Date	Purpose of Notice	Recipients
November 18, 2016	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Subscribers of Council District 6 Notification of Development Proposals
November 18, 2016	Sign Posting for BOZA	Sign Posting on property

### ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

