

December 1, 2017

VIA HAND DELIVERY & ELECTRONIC MAIL

Mike Allendorf, Chair
Louisville Metro Board of Zoning Adjustment
444 S. Fifth Street, Suite 300
Louisville, KY 40202

RE: Case No. 17VARIANCE1068
Request for Reconsideration

Dear Board Chair Allendorf:

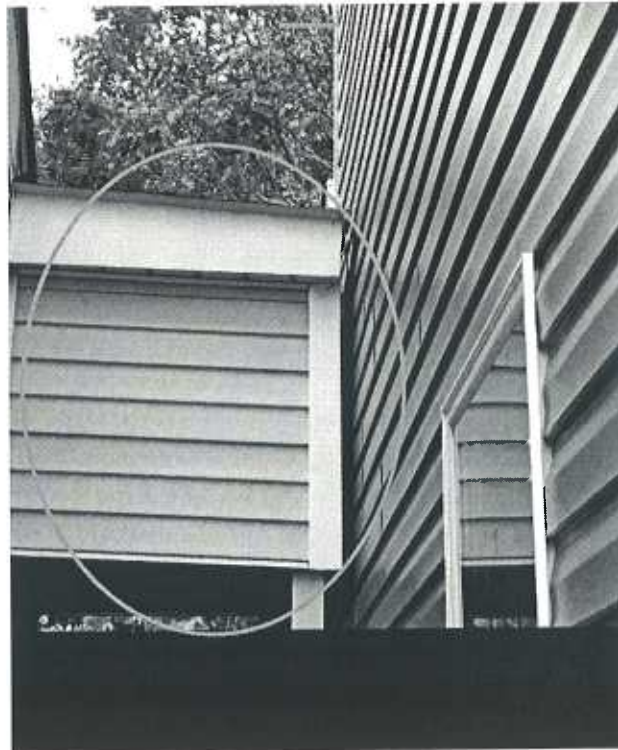
This letter is an update to inform the Chair and the Members of the Louisville Metro Board of Zoning Adjustment ("BOZA") about the efforts undertaken by Bryan Gillespie, owner of 922 Swan Street and applicant for a side-yard setback under BOZA Case No. 17VARIANCE1068 ("Variance"), and Janell Samuels, owner of 924 Swan Street (the property most affected by the Variance), to reach resolution of certain matters associated with the Variance request. During the Business Session of the BOZA's November 20th meeting, Greg Ehrhard, attorney for Janell Samuels, and I, attorney for Bryan Gillespie, appeared before BOZA to jointly request a reconsideration of BOZA's October 30th decision to deny the Variance. Then, our stated reason for the request for reconsideration was so the parties, who at that time expressed their intents to compromise, could work out an agreement mutually beneficial to both properties. The applicant expresses his gratitude to the BOZA for its time and willingness to reconsider this Variance.

As described below, the parties have arrived at terms they believe represent a fair arrangement to cure specific matters to both 924 and 922 Swan Street properties, which purportedly were caused from the reconstruction of the house located on 922 Swan Street (Subject Property). Said reconstruction of a house on the Subject Property triggered the need for the Variance. Moreover, as further explained, the terms of the compromise also better addresses the statutory criteria for approval of the Variance. For the following reasons, we humbly request BOZA reconsider its decision and approve the Variance.

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The parties have agreed that the applicant will be responsible for bearing the cost of the following improvements to 924 Swan Street:

1. Basement waterproofing of the front and side basement walls. The side wall to be waterproofed is the structure's north side, which is the side wall directly adjacent to the parties' shared property line.
2. Certain furnace repair cost required to restore the furnace to working condition, which was damaged from water penetration to the basement.
3. Cost to repair siding located on the side of the structure adjacent to the parties' shared property line.
4. Removal of the roof overhang from the 924 Swan Street structure's northern side, which faces the shared property line with 922 Swan Street, as further depicted immediately below.



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In consideration for the applicant being responsible for the costs to accomplish the items enumerated above, Mrs. Samuels supports approval of the Variance. The parties agree that these enumerated items are to be conditions attached to the approval of the Variance.

The items to be undertaken above, once accomplished, satisfactorily address the necessary variance criteria. As stated, Mrs. Samuels, per the parties' agreement, is in support of the Variance and the alterations proposed to be undertaken by the applicant, as described, will ensure that the Variance will not adversely affect the public health, safety or welfare nor cause a hazard or nuisance to the public.

Further, the removal of the roof overhang from the 924 Swan St. structure will provide space and room for light and air between the houses commensurate with the space between houses in the general vicinity. Considering the long, narrow lot pattern indicative of the Traditional Neighborhood Form of the surrounding area, houses along Swan St. and nearby Caldwell St. are situated relatively close to one another. Indeed, there are a number of structures along Caldwell St. that appear to be built to the property line (zero property line). Thus, the character of this area does in fact include structures build on the "zero property line." The removal of the roof overhang from the 924 Swan St. structure, however, will create space between it and the structure on the Subject Property, thereby bringing the result of the Variance more into character with the general vicinity.

As the applicant testified during BOZA's October 30th Meeting, the applicant erroneously believed that because he was reconstructing the house on its existing foundation, that he would not need a new building permit for this improvement to the Subject Property. The applicant had discussions with representatives from Codes and Regulations about this very issue who represented to the applicant that because he was rebuilding the structure on the existing foundation that "he should be good." The result of the applicant's discussions with Codes and Regulation was that the applicant mistakenly construed these representations as Codes and Regulation's approval to proceed without the need to pull a new building permit to rebuild a structure at its preexisting location. The applicant fully concedes this was an error on his part and that he should have further confirmed these representations from Codes and Regulations in writing. The

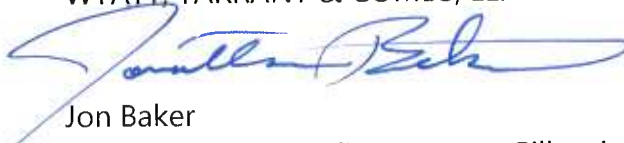
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applicant's error, however, does not rise to the level of the applicant *willfully* violating the side-yard setback requirement. Here, the applicant was unaware of the specific setback requirement for the Subject Property when he decided to reconstruct the building on the existing foundation. Thus, the applicant cannot willfully violate a regulation the content of which he had no knowledge. Once Louisville Metro issued the applicant a stop work order, no additional work was performed on the property. Did the applicant make an inconsiderate mistake? Undoubtedly. Did the applicant willfully violate the setback requirement? Unequivocally not.

Because the BOZA graciously accommodated the parties with its decision to reconsider the Variance, the applicant and Mrs. Samuels were able to successfully reach an agreement to cure the issues that stemmed from reconstructing the house on the Subject Property. Based on said agreement, Mrs Samuels is now in support of the Variance. For all of the foregoing reasons, the applicant respectfully asks BOZA for its approval on the Variance.

Sincerely,

WYATT, TARRANT & COMBS, LLP



Jon Baker
Counsel for the Applicant, Bryan Gillespie

cc: John Carroll
Dante St. Germain
Joe Haberman
Greg Ehrhard, Counsel for Mrs. Janell Samuels, Owner
of 924 Swan Street
Betty Jarboe, Vice Chair
Rosalind Fishman, Board Member
Lester Turner, Board Member
Lula Howard, Board Member
Richard Buttorff, Board Member
Dwight Young, Board Member