

Board of Zoning Adjustment

Staff Report

February 19, 2018



Case No:	18VARIANCE1003
Project Name:	664 Atwood Street Residence
Location:	664 Atwood Street
Owner(s):	664 Atwood LLC
Applicant:	Michael Spoelker
Jurisdiction:	Louisville Metro
Council District:	15 – Marianne Butler
Case Manager:	Dante St. Germain, Planner I

REQUEST

- **Variance** from Land Development Code section 5.4.1.D.3 to allow a private yard area to be less than the required 20% of the area of a lot
- **Variance** from Land Development Code section 5.4.1.E.1 to allow an accessory structure/use area to exceed 50 feet in depth

Location	Requirement	Request	Variance
Private Yard Area	937.5 sf (20%)	0 sf (0%)	937.5 sf (20%)
Accessory Structure/Use Area	50 ft.	58 ft.	8 ft.

CASE SUMMARY/BACKGROUND

The subject property is located in the Saint Joseph neighborhood, and currently contains a one-story structure which was previously used as a church. The applicant proposes to convert the building into a single-family residence with an attached garage accessed from the rear alley. The lot is 37.5 feet in width and 125 feet in depth. The applicant requests a variance to allow the private yard area to be 0 sf, and a variance to allow the accessory structure/use area to exceed 50 feet in depth.

STAFF FINDING

Staff finds that the requested variances are not adequately justified and do not meet the standard of review.

Based upon the information in the staff report, and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards for granting a variance established in the Land Development Code from section 5.4.1.D.3 to allow a private yard area to be less than the required 20% of the area of a lot, and from section 5.4.1.E.1 to allow an accessory structure/use area to exceed 50 feet in depth.

TECHNICAL REVIEW

- No technical review was undertaken.

INTERESTED PARTY COMMENTS

No interested party comments were received.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.4.1.D.3

- (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 as all construction will have to be performed in compliance with building codes.

- (b) The requested variance will alter the essential character of the general vicinity.

STAFF: The requested variance will alter the essential character of the general vicinity as attached garages that eliminate the private yard area are unknown in the immediate neighborhood, with parking pads and detached garages the norm.

- (c) The requested variance will cause a hazard or nuisance to the public.

STAFF: The requested variance may cause a hazard or nuisance to the public as the elimination of the private yard area minimizes the amount of green space remaining on the lot to handle stormwater from rain events.

- (d) The requested variance will allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will allow an unreasonable circumvention of the zoning regulations as a detached garage could be constructed with some private yard area remaining on the lot.

ADDITIONAL CONSIDERATIONS:

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

STAFF: The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the lot is regular in shape with a comparable area to other lots in the general vicinity, and the rear of the principal structure is in line with the rears of other principal structures, leaving the same amount of rear yard and private yard space.

2. The strict application of the provisions of the regulation would not 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 not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as the applicant could construct a detached garage or parking pad in compliance with the traditional neighborhood form and in character with the surrounding neighborhood.

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 as the applicant is requesting the variance and has not begun construction.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.4.1.E.1

- (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 as the extension of the accessory structure/use area is relatively small.

- (b) The requested variance will alter the essential character of the general vicinity.

STAFF: The requested variance will alter the essential character of the general vicinity as the extended accessory structure/use area would not be necessary if the applicant constructed a detached garage, which would be fully in keeping with the essential character of the general vicinity. An attached garage is not in character with the neighborhood.

- (c) The requested variance will cause a hazard or nuisance to the public.

STAFF: The requested variance may cause a hazard or nuisance to the public as the extension of the accessory structure/use area is needed due to the applicant's plan to construct an attached garage, which will require paving much of the remainder of the lot to create a driveway and leave little green space in place to handle rain events.

- (d) The requested variance will allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will allow an unreasonable circumvention of the zoning regulations as a detached garage could be constructed with no extension of the accessory structure/use area required.

ADDITIONAL CONSIDERATIONS:

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

STAFF: The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the lot is regular in shape with a comparable area to other lots in the general vicinity, and the rear of the principal structure is in line with the rears of other principal structures, leaving the same amount of rear yard space.

2. The strict application of the provisions of the regulation would not 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 not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as the applicant could construct a detached garage or parking pad in compliance with the traditional neighborhood form and in character with the surrounding neighborhood.

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 as the applicant is requesting the variance and has not begun construction.

NOTIFICATION

Date	Purpose of Notice	Recipients
01/29/2018	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 15
02/02/2018	Hearing before BOZA	Notice posted on property

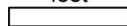
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Site Photos

1. Zoning Map



664 Atwood Street
feet



80
Map Created: 2/8/2018

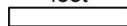


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2. Aerial Photograph



664 Atwood Street
feet



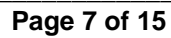
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Map Created: 2/8/2018



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4. **Site Photos**



The front of the subject property.



The property to the right of the subject property.



The property to the left of the subject property.



The property across Atwood Street.



The rear of the principal structure.



The existing private yard area.



The existing private yard area and accessory structure/use area.



The rear of the principal structure where the attached garage is proposed to be constructed.