

Board of Zoning Adjustment
Staff Report
 May 6, 2019



Case No:	19VARIANCE1021
Project Name:	Longest Avenue Variance
Location:	2311 Longest Avenue
Owner/Applicant:	Michael Allen – LAC Real Estate LLC
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Zach Schwager, Planner I

REQUEST

- **Variations**
 1. from Land Development Code section 5.1.10.F to allow a structure to encroach into the required side yard setback.
 2. from Land Development Code table 5.2.2 to allow a structure to encroach into the required rear yard setback.

Location	Requirement	Request	Variance
Side Yard	2.25 ft.	0 ft.	2.25 ft.
Rear Yard	5 ft.	1.5 ft.	3.5 ft.

CASE SUMMARY/BACKGROUND

The subject property is zoned R-5B and is in the Traditional Neighborhood form district. It is located in the Cherokee Triangle neighborhood and preservation district and contains a 2 ½ story single-family residence. The applicant has constructed a new attached deck on the rear of the house. This deck encroaches into the required side and rear yard setbacks.

The subject property is 22.5 feet in width. Land Development Code section 5.1.10.F allows for a lot less than 50 feet in width to have a side yard setback requirement of 10% of the width of the lot. The required side yard setback is therefore 2.25 feet.

The Cherokee Triangle Architectural Review Committee approved the addition on condition under case number 18COA1181 on September 12, 2018. See attachment #5 for conditions.

STAFF FINDING

Staff finds that the requested variations are adequately justified and meet the standards 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 variations established in the Land Development Code from section 5.1.10.F and table 5.2.2 to allow a structure to encroach into the required side and rear yard setbacks.

INTERESTED PARTY COMMENTS

No interested party comments were received.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM SECTION 5.1.10.F (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 structure will need to be constructed to comply with all building codes, including fire codes.

- (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 as the addition will have to come into compliance with the conditions of approval of the approved Certificate of Appropriateness.

- (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 as the deck is similar in design as the neighboring deck.

- (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 as the encroachment is necessary to allow for ingress and egress from the rear of the residence.

ADDITIONAL CONSIDERATIONS:

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

STAFF: The requested variance does arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the subject property is significantly smaller than the majority of the surrounding properties.

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 by requiring the applicant to relocate the existing door on the rear of the structure.

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 the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant has applied for the variance after the construction of the deck.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM TABLE 5.2.2 (2)

- (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 structure will need to be constructed to comply with all building codes, including fire codes.

- (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 as the addition will have to come into compliance with the conditions of approval of the approved Certificate of Appropriateness.

- (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 as the deck is similar in design as the neighboring deck.

- (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 as there is more space between the deck and the fence to the rear than the deck and the fence to the side.

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 arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the subject property is significantly smaller than the majority of the surrounding properties.

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 not create an unnecessary hardship on the applicant because alterations must be made in order to come into compliance with the certificate of appropriateness.

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 the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant has applied for the variance after the construction of the deck.

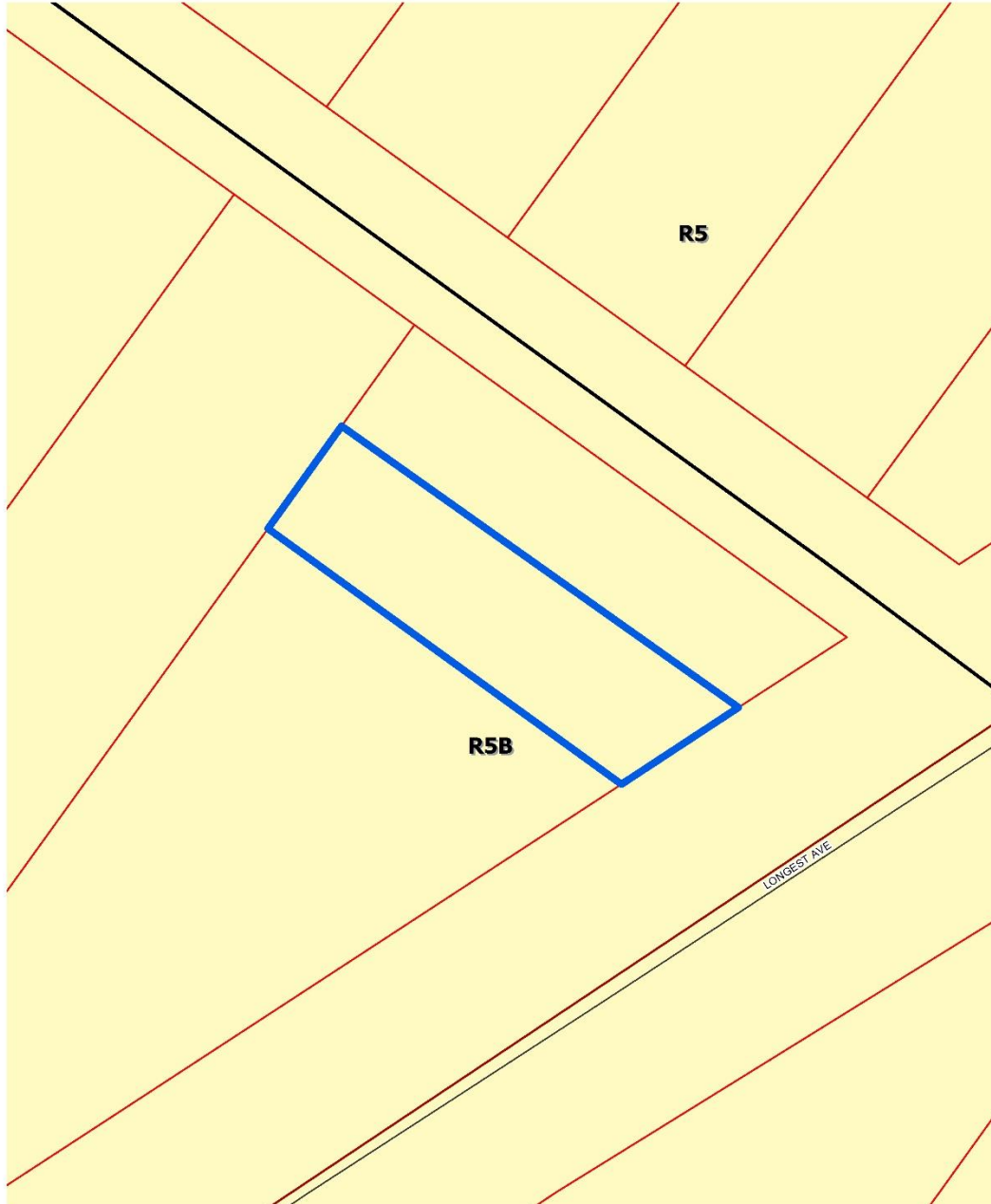
NOTIFICATION

Date	Purpose of Notice	Recipients
04/16/2019	Hearing before BOZA	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 8
04/25/2019	Hearing before BOZA	Notice posted on property

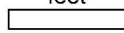
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Site Photos
5. Certificate of Appropriateness

1. Zoning Map



2311 Longest Avenue
feet



20
Map Created: 4/24/2019

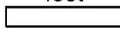


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2. Aerial Photograph



2311 Longest Avenue
feet



20
Map Created: 4/24/2019

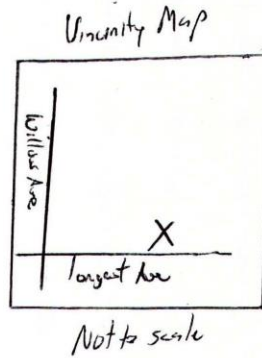
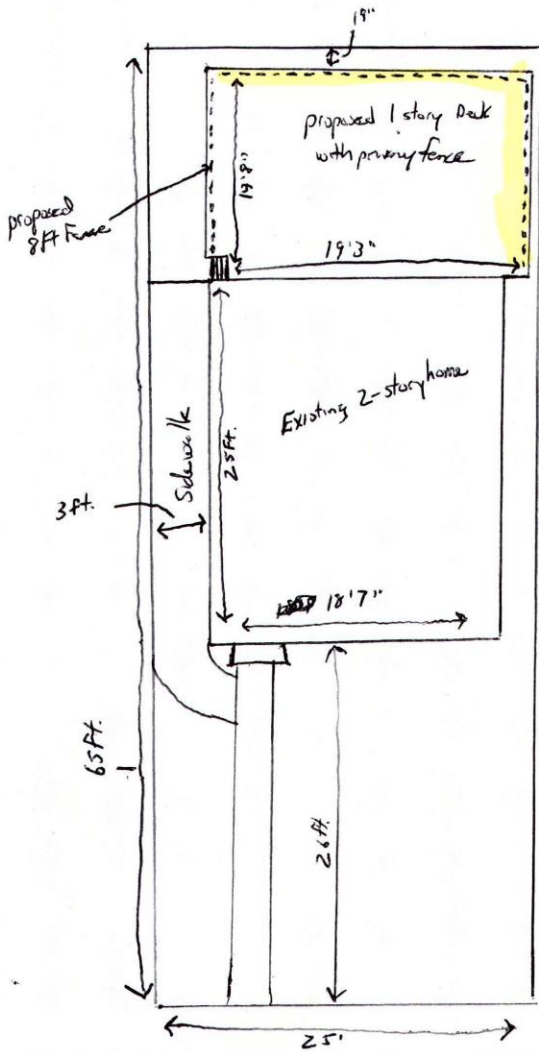


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3. Site Plan

2311 Longest Ave Louisville, KY 40204

Scale 1" = 10 FT



RECEIVED

MAR 12 2019

PLANNING &
DESIGN SERVICES

19 Variance 1021

4. Site Photos



Front of the subject property.



Property to the right.



Property to the left.



Property across Longest Avenue.



Rear yard setback from left.



Rear yard setback from right.



Rear yard setback closeup.



Side yard setback justification.

5. Certificate of Appropriateness



**Historic Landmarks and Preservation
Districts Commission**

Certificate of Appropriateness

To: Michael Allen, LAC Real Estate, LLC
Thru: Cherokee Triangle Architectural Review Committee
From: Becky Gorman, Historic Preservation Specialist
Date: September 12, 2018

Case No: 18COA1181
Classification: Committee Review

GENERAL INFORMATION

Property Address: 2311 Longest Avenue

Applicant: Michael Allen
LAC Real Estate, LLC
5801 Bonfire Ave
Louisville, KY 40207
740.707.4952
Mikeallen149@hotmail.com

Owner: same as applicant

Contractor: N/A

Estimated Project Cost: \$15,000

Description of proposed exterior alteration:

This applicant seeks approval after-the-fact to replace various windows on the sides and rear of the structure including new trim or wrap, construct a new wood deck on the rear of the structure with an attached fence along the perimeter, and replace rotten floor boards on the front porch. The project was constructed prior to the submittal of the application for a Certificate of Appropriateness.

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Communications with Applicant, Completion of Application

The application was received on July 25, 2018. The application was considered complete and requiring Committee Review on July 30, 2018.

The Cherokee Triangle Architectural Review committee met on September 12, 2018 at 4:30 pm, at 444 S. 5th Street, Conference Room 101. Members present were Christopher Quirk (Presiding Chair), Monica Orr, Tamika Jackson and Lindsey Stoughton (Butchertown ARC substitute for quorum). The owner representative Michael Creeden, LAC Real Estate, LLC, was present. Staff representative Becky Gorman presented the case. Jennifer Schultz and Keith Duncan, spoke in opposition of the project stating there was disregard for obtaining proper permits and that work was done deliberately without a Certificate of Appropriateness. The committee had an extended discussion about After-the-Fact COA's and ways to better educate new owners that their property is in a historic preservation district. Lindsey Stoughton moved to approve the staff report as that of the committee. The motion was seconded by Monica Orr. Quirk proposed to amend the conditions of approval to include 2 new conditions. The amendment passed. The committee voted on the motion which passed unanimously. The additional conditions are noted in bold in the Decision of this report.

FINDINGS

Guidelines

The following design review guidelines, approved for the Cherokee Triangle Preservation District, are applicable to the proposed exterior alterations: **Addition, Window, and Site**. The report of the Commission Staff's findings of fact and conclusions with respect to these guidelines is attached to this report. The following additional findings are incorporated in this report:

Site Context/ Background

The site, zoned R5B, is located on the northwest side of Longest Avenue within the Traditional Neighborhood Form District. The circa 1905 2½-story frame house has a front gable roof has a 2nd story bay window and is sheathed in asbestos siding. It is located one lot northeast from the corner of Longest Avenue and Willow Avenue. It is surrounded by other 2- and 2½-story frame homes constructed in the early 1900's.

Conclusions

Much of the window replacement took place prior to staff meeting on site. There was an additional rear window proposed for replacement that would meet the W1 criteria for severely deteriorated. The condition of the other original windows is unknown. The newly installed replacement windows match the original openings and configuration as required in W2 and W4. The windows on the west façade are somewhat visible from the street. However, the design guidelines permit synthetic windows on the side and rear elevations. The east and rear facades are not street visible. The original windows on the front facade remain as well as the decorative windows on the east and west facades.

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The recently constructed rear wood deck has a fence like structure attached around the perimeter of the deck for screening. The deck extends beyond the sides of the structure. Therefore, it does not meet Addition guideline A17 which states, "Design rear decks so that they do not extend beyond the side walls of the house and are not visible from the street." The fence screening on the deck is serving as privacy fencing. It is installed with the framing side out and exceeds 7 feet with the height of the deck. Therefore, it does not meet Site guideline S15. There is an opaque gate that has been installed between 2311 and 2315 Longest which was approved in 2013. Therefore, the part of the deck and fence screening that extend beyond the house on the east side are not visible. However, the deck and fence screening that extend beyond the house on the west side are visible. Staff recommends that the part of the deck and stairs that extend beyond the wall on the west side be removed, so that it does not extend beyond the side wall and conforms to the design guidelines. A screen wall of appropriate design may be installed on the deck, but should be finished side out and painted or opaque stained. A privacy fence may be installed but should be installed, finished side out and be painted or opaque stained.

Replacement of rotten floor boards on the front porch is considered general maintenance.

The project generally meets the Cherokee Triangle Preservation District design guidelines for Addition, Windows, and Site.

DECISION

On the basis of the information furnished by the applicant, staff recommends the application for a Certificate of Appropriateness be **approved** with the following conditions:

1. The part of the deck and stairs that extend beyond the wall on the west side shall be removed so as not to extend beyond the side wall.
2. Deck screening shall be submitted to staff for review and approval.
3. All wood shall be painted or opaque stained within 9 months of installation.
4. If a privacy fence is installed it shall be finished side out.
5. If a privacy fence is installed it shall not exceed 7 feet in height.
6. Historic window trim shall not be covered with metal or siding material.
7. Any changes or additional work shall be submitted to staff for review and approval prior to installation.
8. All Louisville & Jefferson County Land Development Code and Kentucky Building Code compliances shall be met for the proposed project. Building permits shall be obtained.
9. **No windows on the front façade shall be replaced. Windows on the front shall be repaired.**
10. **A new paired casement window with 3-light sash arranged as visible in the "before" photos of the house shall be installed on the west elevation where the original casement window was removed. The new window shall fit the original opening and match the configuration of the window that was removed. The owner shall submit a window cut sheet to staff for approval prior to installation.**

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The foregoing information is hereby incorporated in the Certificate of Appropriateness as approved and is binding upon the applicant, his successors, heirs or assigns. This Certificate does not relieve the applicant of responsibility for obtaining the necessary permits and approvals required by other governing agencies or authorities.

Christopher Quirk

Christopher Quirk, AIA
Presiding Chair

September 28, 2018
Date

Attached Documents / Information

1. Staff Guideline Checklist
2. Web photos showing window in laundry

ADDITION

Design Guideline Checklist

- + Meets Guidelines
- Does Not Meet Guidelines
- +/- Meets Guidelines with Conditions as Noted
- NA Not Applicable
- NSI Not Sufficient Information

	Guideline	Finding	Comment
A1	Ensure that the design of any new addition is in proportion with the size and scale of the historic building and district.	+/-	See conditions of approval
A2	Design any addition so that it is subordinate to the original building. Generally, additions should not exceed half of the original building's total floor area or building footprint.	+	
A3	Generally, additions should be attached to secondary elevations and should be set back from the front façade, so as not to damage or obscure character-defining features.	+/-	See conditions of approval.
A4	Use materials that are the same as or subordinate to the primary material of the original building. Wood is subordinate to brick, and brick and stucco are subordinate to stone.	+	
A5	Respect original roof forms when designing an addition. Additions should complement existing forms, not overwhelm them.	NA	
A6	Do not undertake any full-floor additions in residential preservation districts (adding an additional full floor on top of a building).	NA	

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