

# Board of Zoning Adjustment

## Staff Report

February 19, 2018



<b>Case No.</b>	17VARIANCE1103
<b>Project Name</b>	Variance of Private Yard Area
<b>Location</b>	2054 Eastern Parkway
<b>Owner</b>	Brian and Shana Wooden
<b>Applicant</b>	DelPrince Designs LLC
<b>Jurisdiction</b>	Louisville Metro
<b>Council District</b>	8 – Brandon Coan
<b>Case Manager</b>	Beth Jones, AICP, Planner II

### **REQUESTS**

Variance to reduce the required private yard area (LDC 5.4.D.2.)

Location	Requirement	Request	Variance
Private Yard Area	1,892 sq ft	657.5 sq ft	1,234.5 sq ft

### **CASE SUMMARY / BACKGROUND**

The applicant proposes to replace an existing garage and add living space within a single structure at the rear property line of the 6,307 sq ft site. Since the site is over 6,000 sq ft in area, a minimum Private Yard Area of 30% is required.

The site is located on the south side of Eastern Parkway approximately 350 ft east of Willow Avenue and is served by an alley at the rear. The property north of the site across Eastern Parkway is multi-family residential in use; remaining adjoining properties are single-family. The general vicinity is a mixed of single and multi-family residential uses, with single-family predominating.

According to the applicant's justification statement, the living space within the accessory structure is intended for use by family members and guests. The applicant has been informed that occupancy of this accessory structure is limited to two adults. Although the site's R5-A zoning permits multi-family uses, its size is not sufficient to meet R5-A density requirements for more than one dwelling unit. In addition, short term rentals are not permitted in R5-A zones. The applicant has been informed that the proposed living space within the accessory structure may not be used for long-term rentals, as that would constitute a separate dwelling unit, or for short-term rental without obtaining additional necessary approvals.

An additional 274.0 sq ft of the rear yard is an uncovered wood deck. This would be eligible to be included as part of the private yard area calculations if the site were under 6,000 sq ft in size.

### **STAFF FINDING**

Staff finds that the requested variance is 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 standards for granting a variance to reduce the required private yard area (LDC 5.4.D.2.)

## **TECHNICAL REVIEW**

No technical review comments remain to be resolved.

## **INTERESTED PARTY COMMENTS**

Staff has received no comments from interested parties.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM LDC 5.3.1 (Table 5.3.2)**

(a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested reduction of the required side yard will not adversely affect the public health, safety or welfare.

(b) The requested variance will not alter the essential character of the general vicinity.

STAFF: Because of the substantial front setbacks required along Eastern Parkway, it is not unusual for properties in the vicinity of the subject site to have minimal private yard areas and/or accessory structures that occupy most of the rear yard and span the rear property line.

(c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The proposed construction will meet current building codes and requirements and will not cause a public hazard or nuisance through excessive noise, vibration, odor or light.

(d) The requested variance will not allow an unreasonable circumvention of zoning regulations.

STAFF: The requested variance is not unreasonable as it will result in development of the property consistent with others in the immediate vicinity.

## **ADDITIONAL CONSIDERATIONS:**

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

STAFF: Properties along Eastern Parkway require larger than normal front yard setbacks, making it more difficult to construct a permissible accessory structure and maintain the required rear yard.

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 application of the regulation would create an unnecessary hardship in that the proposal is not inconsistent with the character of the general vicinity.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The existing residence was in place prior to the zoning regulation from which relief is being sought.

**NOTIFICATION**

Date	Purpose of Notice	Recipients
2/2/2018	Hearing before BOZA	1st and 2nd tier adjoining property owners
		Registered Neighborhood Groups in Council District 8
		Sign Posting

**ATTACHMENTS**

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

1. Zoning Map





2. Aerial Photograph



### 3. Site Plan

