

BOARD OF ZONING ADJUSTMENT MINUTES
November 7, 2016

PUBLIC HEARING

CASE NUMBER 16VARIANCE1080

Request: To allow a rear addition to encroach into the side yard setback and reduction in the private yard area.

Project Name: 602 Baxter Avenue

Location: 602 Baxter Avenue

Area: .07200 acres

Owner: Libor Zacek

Applicant: Bruce Rogers – CBR Architects PLLC

Representative: Bruce Rogers – CBR Architects PLLC

Jurisdiction: Louisville Metro

Council District: 4 – David Tandy

Case Manager: Ross Allen, Planner I

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

An audio/visual recording of the Board of Zoning Adjustment meeting related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency Testimony:

00:52:50 Ross Allen presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Bruce Rogers, 1428 Goddard Ave., Louisville, KY 40204

Summary of testimony of those in favor:

00:59:29 Bruce Rogers, of CBR Architects PLLC, spoke on behalf of the property owner. He stated that the adjacent property along the north side of the home is a mixed-use commercial property. The subject property was a single family home that they would like to change to a multifamily triplex to include one unit on the first floor, one unit on the front second floor, and a two story third unit in the rear of the home. Regarding outdoor space, unit one will have access to the front yard and front porch, unit two will have access to the rooftop deck, and unit three will have access to the second floor deck over the back porch. The north side of the addition will be built along the property line.

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The following spoke in opposition to the request:

Timothy Early, 604 Baxter Ave., Louisville, KY 40204

Summary of testimony of those in opposition:

01:07:13 Next door neighbor, Timothy Early, stated that the owner of the property is a nice man, but he believes the proposed renovations to this property would make it a monstrosity. This has been a single family home for over 80 years, and the new owner wants to construct additions to the home and rent three separate units which would increase the square footage to over 3,000 square feet; Mr. Early's home is just over 800 square feet. Mr. Early testified that the owner told him that Airbnb is a part of the owner's plan as well. Mr. Early is also concerned that the owner wants to squeeze a third parking space into the back of the property when parking there is already tight. There is no parking in the front of Mr. Early's home because of a bus stop. He believes the property should remain a single family residence.

01:20:55 Mr. Allen stated that the zoning allows for this property to be a multifamily dwelling, so three units would be acceptable. The zoning could have been defined a number of years ago through an area wide rezoning. The floor area ratio has been met.

Rebuttal:

01:24:05 Mr. Rogers showed photographs of the site to the Board. He was informed by Counsel that these photographs would have to be provided to staff for the record. He stated that the current zoning allows for everything from single family residential to commercial occupation. He pointed out where exterior doors will be located on the home after construction is complete and explained how each unit would be accessed from the exterior. The square footage of the home is increasing from approximately 1,800 to 2,970.

Opposition:

01:38:19 Mr. Early spoke again in opposition and stated that he is familiar with this home because he assisted the owner with a reverse mortgage. The home is 1,372 square feet, not 1,800 as the owner's representative has stated. The additions would put the home at just over 3,000 square feet. He also feels that it is peculiar that the top

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deck will be placed over the roof of the second floor unit along with another deck on the back of the home.

Rebuttal:

01:41:00 Mr. Rogers provided the Board with the existing square footage as well as the proposed additional square footage from his CAD report:

Existing square footage

- Existing first floor: 956 square feet
- Existing second floor: 352 square feet

Additional proposed square footage

- Rear first floor: 522
- Rear second floor: 522
- Front second floor: 618 square feet

The total square footage of the home after construction will be 2,970.

01:42:35 Deliberation

01:44:00 In response to questions from the Board, Mr. Allen stated that the floor area ratio has been met and that there will be no greenspace in the back of the home once construction is complete.

01:54:19 On a motion by Vice Chair Jarboe, seconded by Board Member Howard, the following resolution was proposed:

The Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1080, moves to **APPROVE** Variance # 1 from the Land Development Code section 5.2.2.C, table 5.2.2 to allow an secondary story addition onto the front of the shotgun house and the addition of a rear deck onto the second story rear of the camelback portion of the shotgun house to encroach by approximately 2 feet 9 inches into the minimum side yard setback for a variance of 2 feet 3 inches, as a result of the C-1 zoned parcel be adjacent to a single family residential use based on the Staff Report, the Standard of Review and Staff Analysis, the site plan, and the applicant's testimony.

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The vote was as follows:

Yes: Jarboe, Howard, and Allendorf

Absent: Bergmann

Abstain: None

No: Fishman, Turner, and Tharp

The proposal failed.

01:57:12 On a motion by Vice Chair Jarboe, seconded by Board Member Howard, the following resolution was proposed:

The Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1080, moves to **APPROVE** Variance # 2 from the Land Development Code section 5.4.1.D.3 to allow the proposed addition to the rear of the camelback shotgun house and cantilever deck (second floor) to reduce the private yard area by approximately 629.19 sf. based on the Staff Report, the Standard of Review and Staff Analysis, and the applicant's testimony, and **SUBJECT** to the condition that the applicant provide staff with the photographs shown to the Board today.

The vote was as follows:

Yes: Jarboe, Howard, and Allendorf

Absent: Bergmann

Abstain: None

No: Fishman, Turner, and Tharp

The proposal failed.

01:59:17 **Deliberation**

02:12:57 Board Member Tharp expressed concern with area wide rezoning conducted in the past that allows residents to build from property line to property line.

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He does not feel that this is conducive to creating healthy communities throughout the city.

02:13:59 On a motion by Board Member Tharp, seconded by Vice Chair Jarboe, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1080, does hereby **CLOSE** the record and **CONTINUE** the case to the Business Session of the November 21, 2016 Board of Zoning Adjustment meeting.

The vote was as follows:

Yes: Jarboe, Fishman, Tharp, Turner, and Allendorf

Absent: Bergmann

Abstain: None

No: Howard