

# Board of Zoning Adjustments

## Staff Report

January 27, 2020



<b>Case No:</b>	19-APPEAL-0003
<b>Project Name:</b>	South Fourth Street Appeal
<b>Location:</b>	1337 South Fourth Street
<b>Appellant:</b>	Uri Segev
<b>Representative:</b>	Uri Segev
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	6 – David James
<b>Case Manager:</b>	Jon E. Crumbie, Planning & Design Coordinator

### REQUEST(S)

- Appeal of an administrative decision regarding nonconforming rights

### CASE SUMMARY/BACKGROUND

The Appellant submitted a nonconforming rights determination request on September 16, 2019. Staff conducted a review of the applicant's information and determined that there was insufficient information that the nonconforming use (dwelling, multi-family) has (9) nine units. Therefore, staff concluded that the property does have nonconforming rights for (8) units and submitted a letter to the Appellant stating that decision on November 8, 2019.

The Appellant filed an appeal of the administrative decision on December 6, 2019, which is within the 30-day appeal period. The Appellant submitted information with the appeal application to support his basis of appeal. This documentation is part of the record and is available for the Board to review on the Louisville Metro Government Agenda & Meeting Portal (<http://louisville.legistar.com>).

### STAFF ANALYSIS/FINDINGS

The following sections of the LDC are applicable to this case:

Section 1.2.2 Definitions  
Section 1.3.1 Use  
Section 2.5.2 M-2 Industrial District

As currently defined in LDC Sec. 1.2.2, the following definitions are relevant to the appeal:

*Nonconformity (or Nonconforming)* -An activity or a building, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located.

According to Jefferson County PVA records, the property type is listed as 1: Apartments - Multi-Residential and the property class is listed as 405 Apartments. The PVA lists the building as built in 1885.

The Appellant provided documentation related to his ownership and use of the property for residential activities. However, an affidavit from a realtor/resident in the Old Louisville area is the

only information that was provided for the time period between 1992 – 1996 and 2007. Staff looked at the files within the Office of Planning and Design Services and could not find any information regarding the use of the property as (9) units. Without information to corroborate the affidavits staff cannot determine that the use existed on the property since 1971.

In addition, the Appellant asserts that he can satisfy that the use existed in 1975, but a requirement to go back to 1971 is a very high bar and that the affidavit submitted by an individual for the period preceding the 2000s should be sufficient to grant nonconforming rights.

**Staff Conclusions**

Staff did not have sufficient information in the review of the nonconforming rights case that the residential use existed on the property in 1971. The Appellant has not submitted additional information to change staff’s previous conclusion. Therefore, staff believes that the original decision was correct, and the property does not have established nonconforming rights for (9) units.

**Standard of Review**

Pursuant to LDC 11.7.3 and KRS 100.257, the Board of Adjustment shall have the power to hear and decide cases where it is alleged by the applicant that there is error in any order, requirement, decision, grant, or refusal made by an administrative official in the enforcement of the zoning regulation.

Based upon the file of this case, this staff report, and the evidence and testimony submitted at the public hearing, the Board must determine:

1. Did the residential use (dwelling, multi-family) (9) nine units exist on the property in 1971?
2. If yes to question 1, did this use of the property continue to the present day?

If the Board answers yes to both questions, then the Board would concur with the applicant, and the approval of such motion would overturn staff’s decision.

If the Board answers no to any of the two questions listed above, then an approval of such a motion would affirm staff’s decision.

**RELATED CASES**

**19-NONCONFORM-1017** – The administrative decision in this case is the subject of the appeal.

**INTERESTED PARTY COMMENTS**

No comments submitted.

**NOTIFICATION**

Date	Purpose of Notice	Recipients
1/09/2020	Notification of appeal of an administrative decision	Adjoining property owners, Appellant, and PDS staff GovDelivery District
1/15/2020	Legal ad for notification of appeal of an administrative decision	Courier Journal - published in paper by Appellant or Representative

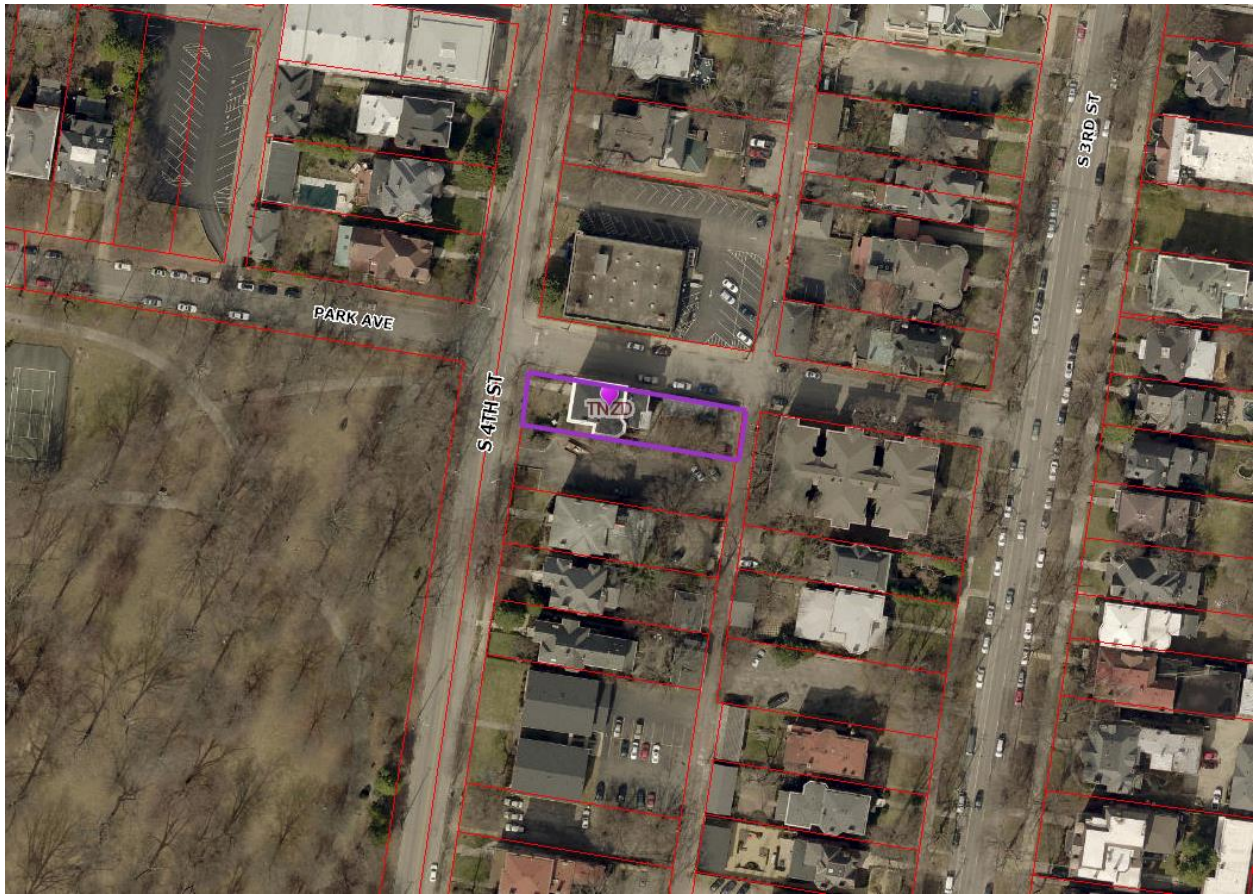
**ATTACHMENTS**

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

1. Zoning Map



2. Aerial Photograph



3. Site Photos



