

EVIDENCE TO SUPPORT SIDEWALK WAIVER

EMAIL FROM: LACEY GABBARD, AICP

DATE: July 10th

TIME: 1:10PM

From: Gabbard, Lacey A <Lacey.Gabbard@louisvilleky.gov>
Sent: Friday, July 10, 2020 1:10 PM
To: Beth Johnson <bethubee1@gmail.com>
Cc: Stuber, Elizabeth W. <Elizabeth.Stuber@louisvilleky.gov>
Subject: RE: RES-NEW-20-00592 2605 Granger Road

I'd like Beth Stuber included in this email. Beth, is there a Public Works inspector who would typically do a site visit, as requested by Ms. Johnson in her email, below.

Ms. Johnson, ultimately it is up to the Board whether or not the request is approved. As PDS staff I do not have any input or say on the **constructability of the sidewalk, as this must be determined by Public Works.** My staff report (which will be presented at the hearing) will indicate, amongst other factors, **whether or not the sidewalk is constructible (as determine by Public Works)** and whether the fee in lieu option has been offered. The fee in lieu moneys will go towards areas of the district that do need sidewalks.

AS DETERMINED AND STATED BY THE PUBLIC WORKS INSPECTOR, WILLIAM ROBINSON:

"I agree that building this is not feasible. The ditch line sidewalk to be pushed would force the sidewalk to the back of the right of way. This would make alignment with any future sidewalk tricky. Also I don't believe any of the other properties have as much right of way as this one. There are no other sidewalk currently in the area.

Though I am not in a position to determine if the sidewalk is constructible, I can be at the onsite meeting. I'd like Beth Stuber to weigh in on how **Public Works would like to determine constructability in this case, since it is ultimately that department which determines this.**

SEE STATEMENT ABOVE IN RED.

Regards,
Lacey Gabbard, AICP

EMAIL FROM: BETH STUBER, TRANSPORTATION ENGINEER SUPERVISOR

DATE: July 10

TIME: 2:09PM

From: "Stuber, Elizabeth W." <Elizabeth.Stuber@louisvilleky.gov>
Date: July 10, 2020 at 2:09:49 PM EDT
To: "Gabbard, Lacey A" <Lacey.Gabbard@louisvilleky.gov>, Beth Johnson <bethubee1@gmail.com>
Cc: "Akridge, John L" <John.Akridge@louisvilleky.gov>, "Robinson, William" <William.Robinson@louisvilleky.gov>
Subject: RE: RES-NEW-20-00592 2605 Granger Road

John,
Can an inspector please look at this location and report if construction of the sidewalk would be feasible? The owner has asked for a sidewalk waiver.

Beth Stuber, PE
Transportation Engineering Supervisor

EMAIL FROM: WILLIAM ROBINSON, PUBLIC WORKS INSPECTOR III

DATE: July 14

TIME: 10:16 AM

From: "Robinson, William" <William.Robinson@louisvilleky.gov>

Date: July 14, 2020 at 10:16:00 AM EDT

To: "Stuber, Elizabeth W." <Elizabeth.Stuber@louisvilleky.gov>, "Gabbard, Lacey A" <Lacey.Gabbard@louisvilleky.gov>, Beth Johnson <bethubee1@gmail.com>

Cc: "Akridge, John L" <John.Akridge@louisvilleky.gov>

Subject: RE: RES-NEW-20-00592 2605 Granger Road

Beth,
Here are some pictures of the site. I agree that building this is not feasible. The ditch line sidewalk to be pushed would force the sidewalk to the back of the right of way. This would make alignment with any future sidewalk tricky. Also I don't believe any of the other properties have as much right of way as this one. There are no other sidewalk currently in the area.

LAND DEVELOPEMENT CODE: CHAPTER 6, PART 2 (PAGES 483-486)

2. Review Process:

- a. Notice shall be given in accordance with the provisions of LDC waivers as listed in Chapter 11 of this code.
- b. The Planning Commission or designee or BOZA (only in conjunction with a review of a variance or conditional use permit request) shall review the waiver request in order to hear comments from concerned citizens and to review comments from Planning and Design Services staff and other agencies.
- c. The Planning Commission or designee or BOZA (only in conjunction with a review of a variance or conditional use permit request) may approve waivers or modifications of standards upon a finding that:

- i. The waiver will not adversely affect adjacent property owners; and

THE WAIVER DOES NOT ADVERSLY AFFECT ADJACENT PROPERTIES. IN FACT, A SIDEWALK WOULD ADVERSLY AFFECT ALL ADJACEDNT PROPERTY OWNERS BY CREATING A UNSAFE ENVIRONMENT FOR TRESSPASSERS THAT CREATES A LIABILITY FOR PROPERTY OWNERS.

- ii. Granting of the waiver will result in a development in compliance with the Comprehensive Plan and the overall intent of this Land Development Code; and

THE WAIVER WOULD RESULT IN A DEVELOPMENT IN COMPLIANCE WITH THE COMPREHENSIVE PLAN AND OVERALL INTENT OF THE LAND DEVLEOPMENT CODE AS STATED BY THE PUBLIC WORKS INSPECTOR, WILLIAM ROBINSON:

"The ditch line sidewalk to be pushed would force the sidewalk to the back of the right of way. This would make alignment with any future sidewalk tricky."

- iii. The applicant cannot reasonably comply with one of the listed methods of compliance (section 6.2.6.C); and

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iv. Strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and

A sidewalk placed on 2605 Granger Road would not be related to the topography and to existing streets and promote public convenience and safety for the adjacent property owners. It would create a hardship on the applicant in the event that it becomes a liability to the owner/applicant and provides NO convenience, practicality or use. Also,

a sidewalk would not facilitate the proper use of the land that it was constructed to serve, in particular, it would not facilitate the drainage and storm runoff objectives set forth in Erosion Prevention Sediment Control.

v. There are site constraints that make sidewalk construction impracticable or sidewalks do not exist in the area and there is not a likelihood for sidewalks to be constructed in the future, except for areas where sidewalks are recommended within a Planning Commission or legislatively adopted plan recommending sidewalk construction.

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There are site constraints as stated by the Public Works Inspector which makes building a sidewalk impractical and not feasible. Also according to the other properties, 2605 is the ONLY property with any kind of "right of way".

DEFINITION OF OPTION:

An **option** is a contract giving the buyer the right, but not the obligation!

I have stated and will continue to state that I do not want the "\$2000 fee in lieu of" OPTION. To force me to take that option is nothing short of EXTORTION.

EXTORTION: Law, the crime of obtaining money or some other thing of value by abuse of one's office or authority.

To NOT grant me this waiver based on the facts presented that meet every criteria for a sidewalk waiver, and holding my building permit for ransom in trying to get me to give the city \$2000 for sidewalks in other areas of the district is the exact definition of EXTORTION.