

Board of Zoning Adjustment

Staff Report

April 10, 2023



Case No:	22-CUP-0402
Project Name:	Accessory Dwelling Unit
Location:	2215 Tyler Lane
Owner(s):	Robert Kluttz
Applicant:	Robert Kluttz
Representative:	Cliff Ashburner
Jurisdiction:	Louisville Metro
Council District:	8- Vacant
Case Manager:	Amy Brooks, Planner I

REQUEST(S)

Conditional Use Permit to allow an Accessory Dwelling Unit in the R-4 Single Family zoning district and the Neighborhood form district. (LDC 4.2.3)

CASE SUMMARY/BACKGROUND

The applicant requests approval of an accessory dwelling unit (ADU). This ADU requires approval from the Board because the owner does not reside on the subject property. The Accessory Dwelling Unit standards in 4.3.27 of the Land Development Code states that "the owner of the property shall reside within either the principal or the accessory dwelling unit." The applicant has converted the 2nd story of the existing detached garage into a 576 sq. ft. accessory dwelling unit. There is existing storage on the first floor of the garage. The primary home is a one and a half story single family home that is 2264 square feet. This case was continued from the March 20, 2023, Board of Zoning Adjustment

STAFF FINDING / RECOMMENDATION

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 established in the LDC for a Conditional Use Permit.

RELATED CASES

ENF-ZON-21-001204

TECHNICAL REVIEW

Upon approval of the requested CUP, the owner/developer should contact Metro Emergency Services to have address assigned for the proposed accessory apartment.

INTERESTED PARTY COMMENTS

A neighborhood meeting was held on December 7, 2022. There were seven people in attendance. A summary of the neighborhood meeting is attached to this agenda item. Staff has received several public comments which are also attached to this agenda item.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

1. Is the proposal consistent with applicable policies of the Comprehensive Plan?

STAFF: The proposal does not conflict with Comprehensive Plan policies.

2. Is the proposal compatible with surrounding land uses and the general character of the area including factors such as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting and appearance?

STAFF: When appropriately managed, the proposed use is compatible with surrounding development and land uses.

3. Are necessary on-site and off-site public facilities such as transportation, sanitation, water, sewer, drainage, emergency services, education and recreation adequate to serve the proposed use?

STAFF: The subject property is served by existing public utilities and facilities. The proposal will not create substantial additional requirements for the site.

4. Does the proposal comply with the specific standards required to obtain the requested conditional use permit?

Accessory dwelling units that do not meet the provisions of Section 4.3.27 may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N districts upon the granting of a conditional use permit and compliance with the listed requirements. All special standards outlined within Section 4.3.27 are met unless relief is granted by the Board. Applications requesting relief from special standards in Section 4.3.27 shall provide written justification demonstrating the reasons why relief should be granted and how such relief would retain the accessory nature of the dwelling unit.

A. One ADU, either attached or detached is permitted per single family dwelling per lot. ***The applicant has been informed of this requirement. There is an apartment on the second floor of the detached garage.***

B. Maximum ADU Size: 800 square feet or 30 percent of the gross floor area of the principal structure, whichever is greater. ***The accessory dwelling unit on the 2nd floor is 588 square feet.***

C. Location Requirements:

1. For an attached ADU, the yard or setback requirements of the principal structure shall be met. The attached ADU shall be located either to the side or behind the principal structure.
2. For a detached ADU, the yard or setback requirements of an accessory structure shall be met. The detached ADU shall be located either to the side or behind the principal structure. ***The applicant is converting an existing garage that is located behind in the principal structure into an ADU.***

D. ADU Access:

1. For an attached ADU, an exterior staircase used to access a second story or higher ADU shall not be located on the front façade of the structure.
2. For a detached ADU, the exterior pedestrian entrance to the ADU shall be located facing the principal structure or side yard. ***The applicant has been informed of this requirement.***

E. Maximum Height:

1. For an attached ADU, the maximum height shall not exceed the height of the principal structure.
2. For a detached ADU, the maximum height shall not exceed the maximum height permitted for an accessory structure in accordance with Chapter 5 of the LDC. The maximum height shall not exceed the height of the principal structure. ***The height of the existing accessory structure does not exceed the height of the principal structure on the lot.***

F. ADUs approved under this provision shall not be used as a short term rental. ***The applicant is not proposing to use the ADU for short term rentals.***

G. Any property that has been subject to a zoning, property maintenance, or building code violation(s) in the 12 months prior to application shall be reviewed and approved by the directors of Planning & Design Services and Codes & Regulations, or their designees. Any violations shall be resolved prior to approval. ***The applicant has been informed of this requirement. The applicant will be required to obtain a building permit. The applicant also has received preliminary approval from both MSD and transportation.***

H. Off-street parking shall meet the requirements of Chapter 9 of the LDC. ***The applicant has been informed of this requirement.***

I. ADUs that include new construction that results in habitable floor area (for example, additions to principal structures or new accessory structures) shall not be allowed on any areas of lots that contain environmental constraints (LDC Section 4.6.2.A) ***The applicant has been informed of this requirement.***

J. The owner of the property shall reside within either the principal or the accessory dwelling unit. ***The applicant is requesting relief to the provision in accordance with LDC Section 4.3.27. Metro Council, during the approval process for the ADU regulation, adopted this standard to ensure that the ADU would remain accessory to the principal structure on the property and that the ADU would be appropriately maintained. If the Board does not grant relief, the application does not meet all of the listed requirements and the conditional use permit cannot be approved. The applicant's justification as to why relief should be granted is attached to this agenda item.***

K. To avoid any confusion, since there is no language to the contrary, this section does not override any deed restriction or homeowners' association declarations restricting accessory dwelling units. ***The applicant has been informed of this requirement.***

NOTIFICATION

Date	Purpose of Notice	Recipients
2/27/2023	Hearing before BOZA	1 st and 2 nd tier adjoining property owners
2/28/2023		Registered Neighborhood Groups in Council District 8
03/06/2023	Hearing before BOZA	Sign Posting

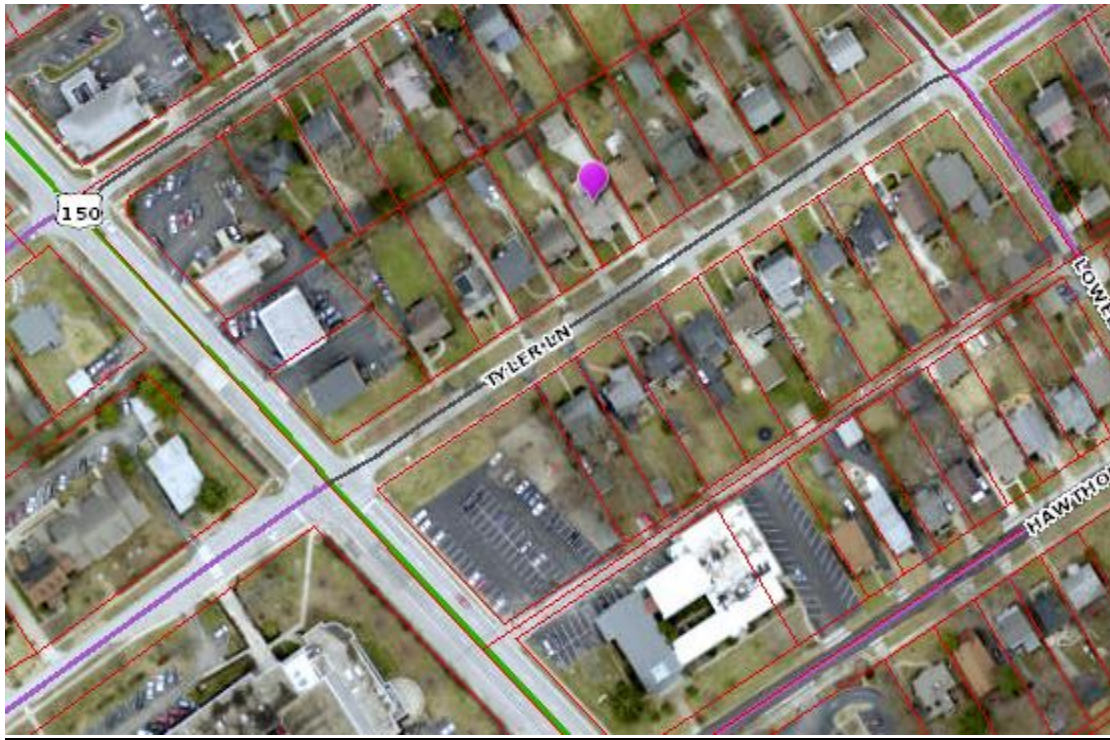
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Site Photos
4. ADU Plan
5. Conditions of Approval

1. Zoning Map



2. Aerial Photograph



3. Site Photos



Front of subject property. Google street view, 2019.



Property to the left of subject site.



Property to the right of subject site, Google street view, 2019.



Across the street from subject property



Front of proposed ADU.



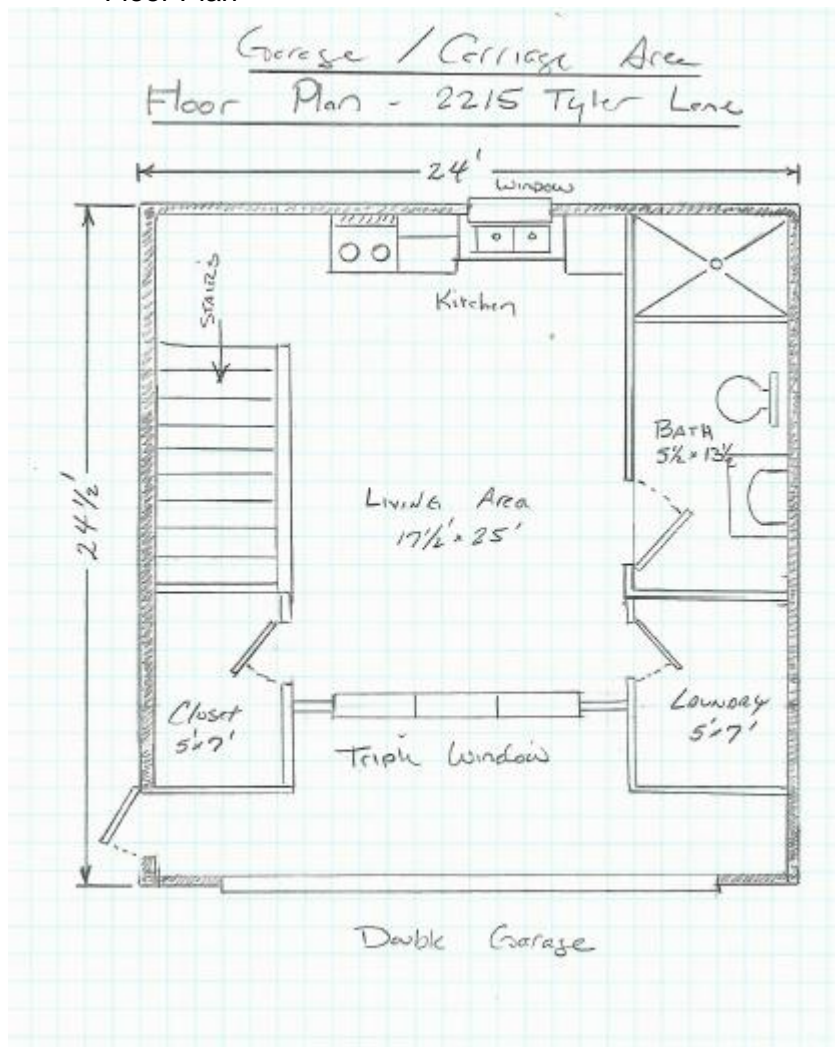
Access door to ADU



Side yard of ADU

4. ADU Plans

Floor Plan



Klutha Side Plan - 2215 Tyler Lane



House Notes:

- ① House Height = 27 ft.
- ② Garage Height = 20 ft.

MSD Notes:

- ① MSD Single Family, Demolition, or Small Commercial Permit required prior to issue of building permits.
- ② Sanitary sewer service provided by new PSC or letter of approval to connect the existing PSC from the state plumbing department along with a deed of restriction on the lot. (7-1-22)

5. Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for an accessory apartment without further review and approval by the Board.