

St. Germain, Dante

From: Rick Sweeney <rickjsweeney@yahoo.com>
Sent: Friday, July 13, 2018 4:38 PM
To: St. Germain, Dante; Coan, Brandon
Cc: Weatherby, Jasmine
Subject: Re: is this a bait and switch ? Fw: Case No. 18VARIANCE1058 - 1202 Bardstown Rd.

Ok, thanks for the info. At least I know the particulars and will assume the neighbors will be alert enough to the situation to address whatever concerns they may have about the expansion, if they exist.

But this kind of thing makes no sense to me. A variance was approved before a necessary easement was in place? Wouldn't the correct thing to do be to postpone the decision on the variance until the easement was granted? In the case of the easement not being granted, the variance request is then presented with whatever the new solution the requesting owners propose.

I have no particular concerns about this project except it seems the process could be used in other cases to gain approval of a project that many would object to except for the conditions being met which themselves rely on some easement or other permission being granted. In this hypothetical, a variance is approved, though perhaps there was actually no intent or hope of that "other permission " being granted, but it becomes a whole lot more palatable to zoning board to pass a simple "removal of the conditions" and allow variance to remain without regard to whatever the objections may exist to the "backup plan", rather than have to approve the "backup plan" from the get go.

Removing conditions of an existing variance might fly under the radar of any that had objections, and might also be a way of zoning board members of using the backward logic that, "Hey, the variance is already approved, we're just here to determine the relevance of removing these conditions that are now moot", ignoring that the impact of the "backup plan" has any relevance to the approval of removing the conditions. In other words, a "bait and switch" that has side stepped what might have been a contentious case had the backup plan been presented originally.

Again, I'll reiterate that I don't say that that is what happened here, and don't know that there is any reason to object to the alternate plans (though for all I know there may be). But I don't like this as a template of how approval of variances are handled. It could have been a much different situation in another area, with an "alternate plan" that raised much more objection. The variance should never have been approved until all the requirement for the plan to take place were met.

Thanks for checking on it.

Rick Sweeney

On Friday, July 13, 2018, 7:16:36 AM EDT, Coan, Brandon <Brandon.Coan@louisvilleky.gov> wrote:

No further questions, Dante - thanks for the thorough explanation.

Brandon Coan

Metro Council District 8
(502) 574-1108

601 W. Jefferson Street
Louisville, KY 40202

From: St. Germain, Dante

Sent: Thursday, July 12, 2018 4:53:26 PM

To: Coan, Brandon; Rick Sweeney

Cc: Weatherby, Jasmine

Subject: RE: is this a bait and switch ? Fw: Case No. 18VARIANCE1058 - 1202 Bardstown Rd.

Councilman Coan,

The original variance request was for Big Bar on Bardstown Road to expand to the rear and encroach into the rear yard. The expansion plan involves a second floor on the building. The original plan had an emergency egress door on the rear of the structure leading from the second floor down a set of stairs, to the rear yard of the wine shop next door. There was also a plan to change a retaining wall on the Lucia Avenue sidewalk to a staircase, so that people exiting the building could descend to ground level. This retaining wall is also on the wine shop property.

The plan hinged on the wine shop granting an easement for Big Bar patrons to use their rear yard in the event of an emergency. At the time of the original variance request, the easement had not yet been granted.

At the hearing of the Board of Zoning Adjustment, a representative of the property that abuts the rear of the Big Bar property raised some concerns about this plan. One concern was that patrons and others may loiter behind the wine shop, since they would have access to that space now with the stairs. Another was that the current retaining wall adjacent to the Lucia sidewalk is shared between the wine shop and the property that the speaker represented, and that changing this retaining wall into a staircase could have negative engineering effects on the neighboring property.

The Board addressed these concerns with three conditions of approval:

1. There will be an emergency egress only for the door at the rear of the property.
2. There shall be a gate installed at the top of the steps which shall only be opened from the inside.
3. Construction of the steps will be poured concrete.

Ultimately, the wine shop refused to grant an easement. The proprietor of Big Bar has reworked the plan, so that the emergency egress stairs are no longer located at the rear. The variance is still needed, but these conditions of approval are now impossible to fulfill, and the concerns of the neighboring property that spurred them are moot. Therefore, the request is now to remove the conditions of approval.

Please let me know if you have any additional questions.

Dante St. Germain

Planner I

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From: Coan, Brandon
Sent: Thursday, July 12, 2018 2:35 PM
To: Rick Sweeney; St. Germain, Dante
Cc: Weatherby, Jasmine
Subject: RE: is this a bait and switch ? Fw: Case No. 18VARIANCE1058 - 1202 Bardstown Rd.

Rick – Dante is the case manager for this one.

Dante – please see below; can you enlighten us as to what exactly this is all about? I'm confused, too. Thanks!

Brandon Coan

Metro Council District 8

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From: Rick Sweeney [mailto:rickjsweeney@yahoo.com]
Sent: Thursday, July 12, 2018 11:18 AM
To: Coan, Brandon
Subject: is this a bait and switch ? Fw: Case No. 18VARIANCE1058 - 1202 Bardstown Rd.

Is this a hearing to discuss removing a Variance? (hard to believe a Variance would ever be removed in this city).

Or is this a hearing to regarding an attempt to get out of some of the conditions originally required in order to get the Variance?

... that is, originally saying they were going to build such and such and agreeing to certain conditions to allow a Variance for them to build such and such, and now say we no longer want to build such and such, so we want the conditions removed, but oh, we still want the Variance, however...

Is this that kind of thing?

If it is, then I'd like to know more about it. Its worth knowing when a bait and switch goes on, because it's bad practice and only becomes the method of choice for projects in the area.

Thanks

Rick Sweeney

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To: "rickjsweeney@yahoo.com" <rickjsweeney@yahoo.com>

Sent: Wednesday, July 11, 2018, 11:00:12 AM EDT

Subject: Case No. 18VARIANCE1058 - 1202 Bardstown Rd.

- [18VARIANCE1058_BOZA+Notice_07.30.18.pdf](#)

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