

Board of Zoning Adjustments

Staff Report

March 2, 2020



Case No:	19-APPEAL-0004
Project Name:	Powell Avenue Appeal
Location:	3744 Powell Avenue
Appellant:	R. Louis Hobbs
Representative:	R. Louis Hobbs
Jurisdiction:	Louisville Metro
Council District:	15 – Kevin Triplett
Case Manager:	Jon E. Crumbie, Planning & Design Coordinator

This case was continued from the February 17, 2020 Board of Zoning Adjustment meeting to allow the appellant more time to gather information about any potential duplex use in the 1960's.

REQUEST(S)

- Appeal of an administrative decision regarding nonconforming rights

CASE SUMMARY/BACKGROUND

The Appellant submitted a nonconforming rights determination request on October 16, 2019. Staff conducted a review of the applicant's information and determined that there was insufficient information that the nonconforming use (dwelling, duplex) has been established in the R-5 Single Family Zoning district. Therefore, staff concluded that the property does not have nonconforming rights for a duplex and submitted a letter to the Appellant stating that decision on December 4, 2019.

The Appellant filed an appeal of the administrative decision on December 31, 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

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 single family. The PVA lists the building as built in 1900.

The Appellant provided documentation related to his ownership and use of the property for residential activities. The property is in the original city and must be dated back to 1971. The Polk Directories do not show two people living in separate dwelling units until 1999 and even then, there are some inconsistencies. There is one person in 2003, two people in 2009, and one person in 2017. The applicant included a list of names she pulled from the City Directories. Her list shows two people living in separate dwelling units from 1998 to 2012 and then again in 2018. The applicant also submitted LGE bills for each unit from 2019 and tax documents for rental property from 2005 -2019. Without further information to corroborate the Appellant information staff cannot determine that the duplex existed on the property since 1971.

Staff Conclusions

Staff did not have sufficient information in the review of the nonconforming rights case that the duplex 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 a duplex.

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, duplex) 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-0025 – The administrative decision in this case is the subject of the appeal.
Complaint

INTERESTED PARTY COMMENTS

No comments submitted.

NOTIFICATION

Date	Purpose of Notice	Recipients
1/30/2020	Notification of appeal of an administrative decision	Adjoining property owners, Appellant, and PDS staff GovDelivery District

2/7/2020

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



