

**MINUTES
LOUISVILLE ZONING BOARD OF APPEALS
AUGUST 8, 2023**

Louisville Zoning Board of Appeals met in regular session with Chairman Casar presiding.

The Pledge of Allegiance was led by Chairman Casar.

MEMBERS PRESENT

Dan Harrison
John Phillippi
Mark Sigler
Bruce Barth
Daniel Casar

CITY PERSONNEL PRESENT

Tiffany Justice, City Clerk
Kaitlyn Carpenter, Planning Assistant
Dan Millsap, Public Works Director
Andrew Turowski, Interim City Manager
Patricia Fallot, Mayor-Council Member
Joanie Aljancic, Council Member

The Certificate of Open Meeting was presented.

MINUTES OF THE JUNE 13, 2023 MEETING

Chairman Casar declared the minutes of the June 13, 2023 meeting approved as presented by unanimous consent

Chairman Casar swore in those in attendance planning to speak before the board.

NEW BUSINESS

AB 23-05 ROBERT & NANCY MORRISON, PROPERTY OWNER, 703 JOEL CIR, FOR VARIANCES OF THE FOLLOWING SECTIONS: 1154.02(A)(1)(A) FOR AN ACCESSORY BUILDING LOCATED IN FRONT OF THE REAR LINE OF THE PRINCIPAL BUILDING AND THE ENTRANCE DOOR TO A GARAGE BE LESS THAN 20 FEET AWAY FROM ANY STREET LOT LINE (18 FEET PROPOSED).

EXISTING CONDITION

- The property is a 109.99 ft X 125.17 ft City lot.
- The applicant wishes to place an accessory building in front of the rear line of the house and locate the building in the front side yard.

ZONING

Parcel: R-1
North: R-1
South: R-2
East: R-1
West: R-1

BACKGROUND INFORMATION

- Section 1154.02(A)(1)(A) states that accessory buildings shall be located behind the rear line of the principal building and shall not be nearer than four feet to any lot line.
- The applicant is proposing to place an accessory building between the side yard and adjacent public right-of-way. Although located on a sub street, development of the adjacent north parcel will result in the extension of Danielle Avenue.

DISCUSSION

- Variances are intended to alleviate a situation in which, for no public reason, zoning for an area more stringently burdens one parcel of land than others. *Zoning does not burden this lot more than other similarly situated lots.*
- Conditions justifying a variance arise from the characteristics of the property itself, not the personal situation of the owner. *The request is for an accessory building, the primary use is not limited.*
- The standard to use in determining the merits of an area variance is whether the denial of the variance would result in “practical difficulties” for the property owner. The following questions need to be examined in considering an area variance:
 1. Can there be a beneficial use of the property without the variance? *Yes, the lot is accommodating the primary use of a residence.*
 2. Is the variance substantial? *The variance being requested places an accessory building within the required front side yard.*
 3. Will the essential character of the neighborhood be substantially altered or adjoining properties suffer a substantial detriment? *No*
 4. Did the property owner purchase the property with knowledge of the zoning restriction? *Unknown.*

5. Can the problem be solved by some other manner other than the granting of a variance? *The applicant could relocate the accessory building but will most likely need to request multiple setback variances.*

Robert Morrison, 703 Joel Cir, property owner was present for the meeting.

Member Casar asked why an existing concrete pad was on the property? Mr. Morrison stated that they purchased the property, and the pad existed to house a motorhome of the previous property owners. Mr. Morrison said he spoke with his adjoining neighbors, and no one objected to the placement of the accessory building.

Mr. Morrison stated that the building would be 10x30 in size. Member Casar asked if the building could be smaller. Mr. Morrison said he originally wanted a larger building, but due to the size of the pad he had to go smaller, and a larger building would not be possible, as the existing landscaping would be ruined.

MEMBER SIGLER MOVED, MEMBER PHILLIPPI SECONDED, and the Motion carried to approve the detached accessory building placement in front of the rear line of the principal building as submitted. The vote: Harrison no, Phillippi yea, Sigler yea, Casar yea.

AB 23-06 HETTLER LARGENT ENGINEERING, APPLICANT, FOR VARIANCES OF THE FOLLOWING SECTIONS FOR PROPOSED BORGIO ALLOTMENT: SECTION 1162.02(A) THE DESIGN OF PROPOSED STREETS SHALL PROVIDE FOR BOTH THE CONTINUATION OF EXISTING STREETS AND ACCESS TO ADJACENT UNPLATTED LANDS SO THAT THE ENTIRE AREA CAN BE SERVED WITH A COORDINATED STREET SYSTEM. 1162.02(D) NO STREET ARRANGEMENT SHALL BE APPROVED THAT PREVENTS CONVENIENT FUTURE ACCESS TO ADJOINING UNDEVELOPED PROPERTY, PROPOSED ROADWAY NOT BEING EXTENDED NORTH DUE TO LOCATION OF FUTURE ACCESS.

EXISTING CONDITION & BACKGROUND

- The property is currently vacant and located off W Reno Dr.
- The property is zoned R-2 and consists of 16+ acres.
- The property owner is proposing to construct a housing development consisting of 17 lots.
- The Louisville Planning Commission will be reviewing the preliminary plat for the development following the BZA meeting.

ZONING

Parcel	R-2
North:	R-2 (Township)
South:	R-2

East: R-2
West: R-1

DISCUSSION

- Variances are intended to alleviate a situation in which, for no public reason, zoning for an area more stringently burdens one parcel of land than others. *Zoning does not burden this lot more than other similarly situated lots. The applicant was approved for an off centered intersection less than the required 200 ft and a lot to width ratio that exceeds the average width on 4 lots at a previous appeal meeting, and is additionally applying for the proposed roadway not to be extended north due to location of future access.*
- Conditions justifying a variance arise from the characteristics of the property itself, not the personal situation of the owner. *The applicant is proposing a housing allotment on lots of various sizes.*
- The standard to use in determining the merits of an area variance is whether the denial of the variance would result in “practical difficulties” for the property owner. *The request for the variance is the result of the applicants’ decision to subdivide the property.*
- The following questions need to be examined in considering an area variance:
 1. Can there be a beneficial use of the property without the variance? *Yes, the property can still accommodate residential uses.*
 2. *Is the variance substantial? There is one being requested:*
 - a. *1162.04 (a) The design of proposed streets shall provide for both the continuation of existing streets and access to be adjacent unplanned lands so that the entire area can be served with a coordinated street system.*
 - b. *1162.04 (d) No street arrangement shall be approved that prevents convenient future access to adjoining undeveloped property. The request does not extend the proposed roadway to the north. The existing gas well on lot 8 & 9 will make it difficult to extend the roadway.*
 3. Will the essential character of the neighborhood be substantially altered, or adjoining properties suffer a substantial detriment? *The adjoining properties are residential, and the proposed use of the property will be residential.*

4. Did the property owner purchase the property with knowledge of the zoning restriction? *Unknown.*

5. Can the problem be solved by some other manner other than the granting of a variance? *The allotment could be reconfigured.*

Rich Largent, applicant, was present for the meeting. In giving a brief summary of the new application, Mr. Largent explained that the original layout of the proposed development was turned down. He and the developer sat down and redeveloped the lots and layout, considering the comments from the last meeting from both the boards and the property owners. Another reason for the layout change was the cost for the sanitary sewer hook ups. With this new layout, the length and number of lots can be serviced by the existing sanitary sewer and it would not need to be extended any further.

Member Harrison asked if the lots would be buildable on the north part of the parcel. Mr. Largent said that the lots would be buildable, but lots 8 & 10 would have snaked driveways.

Member Sigler questioned the well that is on the buildable lot and if it would not be developed or developed in the future. Mr. Largent believed that the well was still producing but was unsure of the age. The lot would be developed in the future but wouldn't be developed with anything other than a single-family home.

Member Sigler also asked if the cul-de-sac would be permanent, and Mr. Largent stated it would be.

Sandy Humprey, 7460 Brookside, owns the property north of the proposed development. It currently borders city properties on 3 sides and township on 1 side. She stated that if Glenbrook Ave dead ends into the proposed allotment, there would be no access to the property and her property would not have frontage. If she were to ever build, it would be land locked and she would have no way to access it.

Member Harrison questioned how they would propose to get access to the property. Mr. Largent responded that the way it was resubmitted, it does not give access to the property. Member Philippi said that establishing an easement with a deed restriction could give access to west.

Members discussed the matter of the variance and whether or not they were able to make a determination of the easement access and granting access to the property a condition of approval. Member Casar stated that it was for the Planning Commission board to determine.

MEMBER SIGLER MOVED, MEMBER PHILLIPPI SECONDED, and the Motion carried to approve the continuation of existing streets and access to adjacent unplatted lands as submitted. The vote: all yea.

MEMBER PHILLIPPI MOVED, MEMBER CASAR SECONDED, and the Motion was denied preventing convenient future access to adjoining undeveloped properties and not extend the road to the north. The vote: Harrison no, Phillippi no, Sigler no, Casar no.

AB 23-07 JEFF & CHERYL RICH, PROPERTY OWNERS, 523 E MAIN ST, FOR A VARIANCE OF THE FOLLOWING SECTIONS: 1158.05 FOR A PARKING LOT WITH LESS THAN THE REQUIRED 13 PARKING SPACES (10 PROPOSED).

EXISTING CONDITION

- The property is located at 523 E Main St and the former Juilliard Senior Center.
- The parcel is zoned B-4, General Retail – Office District.
- There is an existing asphalt parking lot located on the parcel, applicant proposed to restripe 10 spaces.
- Applicants will also go before the Design Review and Planning Commission boards for a review of exterior changes, certificate of appropriateness, conditional use and site plan review.

ZONING

Parcel: B-4
North: PGMI
South: B-4
East: R-3
West: B-4

BACKGROUND INFORMATION

- The property owners are proposing to conduct a coffee house and ice cream business.
- The existing parking lot is asphalt and will be restriped for ten spaces. Per engineer's comments, based on the code, 6 spaces are required for the office space (1 space/250 s.f.) and 7 spaces required for the indoor seating (1 space/4 seats). The amount of outdoor seating is undetermined at the time of the application submittal.

DISCUSSION

- Variances are intended to alleviate a situation in which, for no public reason, zoning for an area more stringently burdens one parcel of land than others. *Zoning does not burden this lot more than other similarly situated lots.*
- Conditions justifying a variance arise from the characteristics of the property itself, not the personal situation of the owner. *The applicant is changing the use of the facility and the existing parking lot does not have enough on-site area to accommodate.*
- The standard to use in determining the merits of an area variance is whether the denial of the variance would result in “practical difficulties” for the property owner. The following questions need to be examined in considering an area variance:

1. Can there be a beneficial use of the property without the variance? Yes,

2. Is the variance substantial? *The current seating for office spaces and indoor seating requires 13 parking spaces, 10 are proposed which constitutes a 23% variance request. Additionally because details are not provided for the outdoor seating, the request is actually greater.*

3. Will the essential character of the neighborhood be substantially altered or adjoining properties suffer a substantial detriment? *The existing parking lot is located in an area that is primarily B-4 or PGMI, with residential across the street.*

4. Did the property owner purchase the property with knowledge of the zoning restriction? *Unknown.*

5. Can the problem be solved by some other manner other than the granting of a variance? *The amount of seating could be reduced.*

Jeff Rich, property owner, was present for the meeting. He explained that the former Juilliard building would be used to house a new coffee shop and ice creamery.

Member Casar commented on the included note from the adjoining property owner that would allow Virgil's to use their parking lot for additional parking after they closed up and on weekends.

MEMBER SIGLER MOVED, MEMBER HARRISON SECONDED, and the Motion carried to approve the 10 spaced parking lot as submitted. The vote: all yea.

Having no further business, the meeting was adjourned.

Respectfully submitted,

Kaitlyn Carpenter
Planning Assistant