



**ZONING BOARD OF ADJUSTMENT**

**Date of Hearing:** August 15, 2019  
**Date of Decision:** September 27, 2019

**Zone Case:** 168 of 2019  
**Address:** 4635 Butler Street  
**Lot & Block:** 80-P-314  
**Zoning Districts:** LNC  
**Ward:** 9  
**Neighborhood:** Larimer

**Owner:** Abbatia Holdings LLC  
**Applicant:** Amanda Priano

**Request:** Construct accessory structure for outdoor seating, construct vestibule for existing one-story restaurant.

<b>Variance</b>	904.02.B.2	Accessory uses shall not exceed 25% of the primary uses' floor area; 55% requested
<b>Special Exception</b>	911.02	Use as restaurant (general)
<b>Special Exception:</b>	916.09 / 916.02.A.6	The minimum residential compatible rear setback is 15', 0' requested

**Appearances:**

**Applicant:** Eric Kukura, Chris McAleer, Carolyn McGee (Attorney), Amanda Priano  
**In-Favor:** David Breingan, Melisa Schafer, Patrick Conner  
**Opposed:** Robin Berman

**Findings of Fact:**

1. The Subject Property is located at 4635 Butler Street, between Home Street and 47<sup>th</sup> Street, in an LNC (Local Neighborhood Commercial) District in Lawrenceville. Eden Way is located at the rear of the Subject Property.
2. A one-story restaurant is located on the Subject Property.

3. The Subject Property slopes down from the front property line to the rear on Eden Way and the existing building extends to the rear property line.
4. Allegheny Cemetery is located across Butler Street from the Subject Property. The properties on opposite side of Eden Way are within an R1A-VH (Residential Single-Unit Attached, Very High-Density) District.
5. A May 17, 2017 Certificate of Occupancy permits use of the property for a "Restaurant (general), with awnings (3) and screening wall to surround patio, landscape buffer along Home and 47<sup>th</sup> Street."
6. The Applicant proposes to construct a new 836 sf covered patio on the 47<sup>th</sup> Street side of the building. Combined with the existing patio area on the Home Street side of the building, the restaurant would have 2,683 sf of accessory outdoor space. Currently, the 1,847 sf gross floor area of the outdoor space is 38% of the 4,919 gross floor area of the primary restaurant use. With the expansion, the 2,683 sf gross floor area of the accessory space would be approximately 55% of the gross floor area of the primary restaurant.
7. The Applicant explained that the restaurant space is used for a bar, a restaurant and a coffee shop and that the different accessory patio spaces are intended to serve those multiple functions. The existing landscaping buffers on Home Street and 47<sup>th</sup> Street would remain in place.
8. The Applicant also proposes to construct a 16' by 19' (304 sf) one-story addition at the rear of the proposed covered patio area, with a 0' from the rear property line on Eden Way.
9. The Applicant stated that the addition would be used for storage and preparation spaces and would not be used as an additional seating area.
10. Currently 11 parking spaces are available for the restaurant use. City Planning Department personnel have determined that the proposed additions would not require any additional on-site parking spaces.
11. Lawrenceville United and Lawrenceville Corporation submitted a letter of support for the proposed development, which is subject to a series of suggested conditions:
  - a. Offering the Port Authority Job Perks Program to all eligible employees who do not live within walking distance;
  - b. Offering a standing discount (not related to alcohol) for patrons who bike or use a ride-sharing service to the bar and/or restaurant;
  - c. Limiting amplified music to the boundaries of the Subject Property;
  - d. Closing the patios by 11 p.m. on Sundays through Thursdays, and by 12 a.m. on Fridays and Saturdays;
  - e. Not offering alcohol specials;
  - f. Notifying the community groups in advance of outdoor events/entertainment; and
  - g. Ensuring that occupancy of the outdoor areas does not exceed permitted occupancy regulations.
12. The Applicant generally agreed to comply with the suggested conditions.
13. One neighboring property owner appeared at the hearing to oppose the Applicant's request, citing concerns related to parking and traffic.

## Conclusions of Law:

1. The Applicant seeks a special exception pursuant to Code Sections 911.02 and 911.04.A.57 to permit the expansion of the restaurant (general), a variance from Section 904.02.B.2, which limits the size of accessory uses, as compared to the size of the primary use, to 25% of the gross floor area of the primary use. The Applicant also seeks a special exception, pursuant to Section 916.09, to waive the residential compatibility standard of Section 916.02.A.6, which requires a 15' rear setback.

2. The special exception criteria for a restaurant (general) use require consideration of available parking facilities and potential off-site impacts of the use. Consistent with the evidence presented and the Applicant's agreement to conditions for the use, as suggested, the Applicant has demonstrated compliance with the special exception and approval of the requested special exception is appropriate.


3. The Applicant proposes an 836 sf addition of patio area on the 47<sup>th</sup> Street side of the building, which would bring the total area of outdoor space to 2,683 sf of outdoor space. The outdoor space is be accessory to the primary restaurant use, which has a gross floor area of 4,919 sf. The existing outdoor area is 38% of the gross floor area of the primary use and the new outdoor area would increase that percentage to 55%. Subject to limitations on the use of the outdoor area, as suggested, the impact of the proposed additional patio area will be minimal, in the context of the site and the existing use. The Board thus concludes that approval of the requested variance is appropriate.


4. The Applicant also proposed a 304 sf addition to the existing building, which, like the existing building would extend to the rear property line on Eden Way with a 0' setback. The area within the addition would be used for storage and preparation and not for seating. Section 916.09 allows for waiver of the rear setback residential compatibility standard as a special exception. In the context of the site and the existing building, waiver of the 15' setback will not result in any detrimental impacts on the Eden Way properties.

5. For these reasons, consistent with the evidence and testimony presented and the applicable legal standards governing variances and special exceptions, the Board concludes that approval of the requested variances and special exceptions is appropriate, subject to the identified conditions.

**Decision:** The Applicant's request for special exceptions pursuant to Code Sections 911.02 and 916.09 and a variance from Code Section 904.02.B.2 is hereby APPROVED, subject to the following conditions:

- a. The Port Authority Job Perks Program shall be made available to all eligible employees;
- b. Incentives shall be provided to patrons who bike or use ride-sharing services to the bar and/or restaurant;
- c. Any amplified music shall be limited to the boundaries of the site;
- d. The outdoor areas shall close by 11 p.m. on Sundays through Thursdays, and by 12 a.m. on Fridays and Saturdays;
- e. The community groups shall be provided with reasonable advance notice of any large outdoor events/entertainment; and
- f. Use of the outdoor areas shall comply with the occupancy limitations on those areas.

  
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Alice B. Mitinger, Chair

FOR   
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LaShawn Burton-Faulk

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John J. Richardson