

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

October 1, 2018

A meeting of the Louisville Metro Board of Zoning Adjustment was held on October 1, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Rosalind Fishman, Chair
Dwight Young, Vice Chair
Lula Howard, Secretary (left at approximately 4:22 p.m.)
Lester Turner, Jr.
Kimberly Leanhart

Members Absent:

Richard Buttorff

Staff Members Present:

Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Steve Hendrix, Planning & Design Coordinator
Jon Crumbie, Planning & Design Coordinator
Dante St. Germain, Planner II
Zach Schwager, Planner I
Beth Jones, Planner II
Beth Stuber, Engineering Supervisor, Transportation Planning
John Carroll, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

APPROVAL OF MINUTES

**SEPTEMBER 17, 2018 BOARD OF ZONING ADJUSTMENT MEETING
MINUTES**

00:03:32 On a motion by Member Turner, seconded by Member Leanhart, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on September 17, 2018.

The vote was as follows:

Yes: Members Turner, Leanhart, Vice Chair Young, and Chair Fishman
Abstain: Member Howard
Absent: Member Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

BUSINESS SESSION

CASE NUMBER 18VARIANCE1081

Request:	Variance to allow a private yard area to be less than the required 20% of the area of the lot
Project Name:	Park Avenue Variance
Location:	631 Park Avenue
Owner:	Peggy Cummins
Applicant:	Doug Wilson
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Zach Schwager, Planner I

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency testimony:

00:04:57 Zach Schwager presented the case and showed the site plan (see staff report and recording for detailed presentation).

00:06:12 On a motion by Member Howard, seconded by Vice Chair Young, the following resolution, based upon the Staff Report, and staff's presentation, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the proposed addition will be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposed addition was approved by Historic Landmarks and Preservation Commission staff, and

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

BUSINESS SESSION

CASE NUMBER 18VARIANCE1081

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed addition will be constructed according to building codes, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the majority of the other homes on the block have similar additions, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone as the addition since the lot is regular in shape and similar in size to surrounding properties, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by preventing the applicant from building an addition onto the existing structure, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not begun construction; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1081 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.3 to allow a private yard area to be less than the required 20% of the area of a lot (**Requirement 498 sq. ft., Request 0 sq. ft., Variance 498 sq. ft.**).

The vote was as follows:

Yes: Members Turner, Howard, Leanhart, Vice Chair Young, and Chair Fishman

Absent: Member Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

BUSINESS SESSION

CASE NUMBER 18VARIANCE1076

Request:	Variance to allow a proposed detached garage to encroach into the required rear yard
Project Name:	Wilson Detached Garage
Location:	305 Breckenridge Lane
Owner/Applicant:	Adam Wilson
Jurisdiction:	St. Matthews
Council District:	9 – Bill Hollander
Case Manager:	Jon E. Crumbie, Planning & Design Coordinator

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency testimony:

00:07:43 Jon Crumbie presented the case and showed the site plan (see staff report and recording for detailed presentation).

00:08:38 On a motion by Vice Chair Young, seconded by Member Howard, the following resolution, based upon the staff findings and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the addition will have to be constructed according to building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since there are several encroachments of this type into the rear yard setback, and

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

BUSINESS SESSION

CASE NUMBER 18VARIANCE1076

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed addition will have to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since encroachments into the rear yard setback are common in the neighborhood, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because most of the existing detached garages are located closer to the primary residence on site and appear to be 1 car, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by requiring the applicant to reduce the size of the garage and/or move it closer to the existing residence on site which would reduce the useable rear yard and require an additional variance, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not begun construction; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1076 does hereby **APPROVE** Variance from Land Development Code Section 9.2.P to allow a structure to encroach into the required rear yard setback (**Requirement 25 feet, Request 5 feet, Variance 20 feet**).

The vote was as follows:

Yes: Members Turner, Howard, Leanhart, Vice Chair Young, and Chair Fishman

Absent: Member Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

OLD BUSINESS

CASE NUMBER 18APPEAL1001

Case No:	18APPEAL1001
Project Name:	Conley Appeal
Location:	4301 Mud Lane
Owners/Appellants:	Rickey and Janice Conley
Representative:	Bart Greenwald
Jurisdiction:	Louisville Metro
Council District:	13 - Welch
Case Manager:	Chris French, AICP, Planning & Design Supervisor

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency Testimony:

00:09:40 Chris French stated the appellant's attorney has requested this case be continued to the November 5, 2018 Board of Zoning Adjustment meeting (see recording for detailed presentation).

00:10:42 On a motion by Member Howard, seconded by Member Turner, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 18APPEAL1001 to the **November 5, 2018** Board of Zoning Adjustment meeting.

The vote was as follows:

Yes: Members Turner, Howard, Leanhart, Vice Chair Young, and Chair Fishman

Absent: Member Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1073

Request:	Conditional Use Permit to allow a private institutional use in a Single Family Zoning District, variances for the front setback and height, and a sidewalk waiver
Project Name:	Kingdom Center Church
Location:	13913 & 13985 Poplar Lane
Owner:	James & Margie Charasika
Applicant:	The Kingdom Center Church
Representative:	Kelli Jones, Saabak, Wilson & Ingo, Inc.
Jurisdiction:	Louisville Metro
Council District:	20 – Stuart Benson
Case Manager:	Steve Hendrix, Planning and Design Coordinator

NOTE: This case was heard out of order, prior to Item #5 on the Agenda.

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency Testimony:

00:13:02 Steve Hendrix presented the case and showed a Powerpoint presentation. Mr. Hendrix responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Glenn Price, 400 W. Market St., Suite 3200, Louisville, KY 40202
Greg Wellman, 5109 Heather Hill Rd., Lagrange, KY 40031
Kelli Jones, 608 S. 3rd St., Louisville, KY 40202
Eric Penland, 608 S. Third St., Louisville, KY 40202

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1073

Summary of testimony of those in favor:

00:20:31 Glenn Price spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:25:28 Greg Wellman spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

00:29:37 Kelli Jones spoke in favor of the request and showed a Powerpoint presentation. Ms. Jones reviewed proposed Conditions of Approval regarding police-managed traffic control. Ms. Jones responded to questions from the Board Members (see recording for detailed presentation).

00:42:38 Mr. Price responded to questions from the Board Members regarding other churches in the area (see recording for detailed presentation).

00:48:19 Ms. Jones responded to questions from the Board Members (see recording for detailed presentation).

00:50:41 Eric Penland spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:53:10 Mr. Price stated he would like to add Wednesday evening to the proposed Conditions of Approval regarding police-managed traffic control (see recording for detailed presentation).

The following spoke in opposition of the request:

Harriet Wearren, 13986 Poplar Lane, Louisville, KY 40299

Wade Wearren, 13986 Poplar Lane, Louisville, KY 40299

Charlotte Smith, 1120 S. English Station Rd., Louisville, KY 40299

W.J. White, 14105 Poplar Lane, Louisville, KY 40299

Nicole Bartlett, 13989 Poplar Lane, Louisville, KY 40299

Richard Park, 13982 Poplar Lane, Louisville, KY 40299

Beverly Servino, 14415 Oxford Station Ln., Louisville, KY 40299

00:55:59 Chair Fishman swore in everyone in attendance who had signed up to speak in opposition.

BOARD OF ZONING ADJUSTMENT MINUTES

October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1073

Summary of testimony of those in opposition:

00:56:41 Harriet Wearren spoke in opposition of the request. Ms. Wearren stated her concern is the position of the entrance. Ms. Wearren stated she wished they would propose to put the entrance and exit to their church on the cut-off road that's Poplar Lane that dead-ends. Ms. Wearren stated she thinks when they came out there they would be able to see in each direction better. Ms. Wearren stated another concern is their septic system. Ms. Wearren stated she doesn't understand septic systems, but she knows if they drain into the ground, there is a lower pond that feeds to the creek that runs in front of her house (see recording for detailed presentation).

01:00:13 Wade Wearren spoke in opposition of the request. Mr. Wearren stated they need no more traffic on that road than what they have. Mr. Wearren stated every time it rains the pond overflows and floods that road (see recording for detailed presentation).

01:02:57 Charlotte Smith spoke in opposition of the request. Ms. Smith provided the Board Members with pictures. Ms. Smith stated she had taken these pictures today so they could see what the road looks like. Ms. Smith stated the speed limits are not adhered to. Ms. Smith stated this has been referred to as a rural area, and she is in her 28th year of selling real estate and she can assure this is not a rural area. Ms. Smith stated this is the fastest growing suburban area in Jefferson County. Ms. Smith stated Poplar Lane was not designed for high traffic. Ms. Smith stated she is concerned about contamination of her lake and her neighbor's lakes, ponds and streams because she was told that this is going to be 130,000 gallon septic system. Ms. Smith stated most of the churches that she's been around not only meet on Sunday, but they have weddings, funerals, bible study, teen groups and just so many other groups. Ms. Smith stated they were told this church currently has 825 members and they plan to grow it. Ms. Smith stated they already have Poplar Lane Baptist Church on Poplar Lane in the curve and she does not believe Poplar Lane can handle another church safely (see recording for detailed presentation).

01:08:58 W.J. White spoke in opposition of the request. Mr. White stated cyclists are all over that road. Mr. White spoke in regard to the traffic on Poplar Lane. Mr. White stated they're talking about expanding to a school; that's not on this proposal. Chair Fishman stated she doesn't remember them saying anything about a school. Mr. White stated they did in the meeting, so they don't know what they're going to expand in the future (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1073

01:14:58 Nicole Bartlett spoke in opposition of the request. Ms. Bartlett stated her main concern is the traffic. Ms. Bartlett stated she is also concerned about drainage issues (see recording for detailed presentation).

01:17:00 Richard Park spoke in opposition of the request. Mr. Park stated he is not getting any correspondence at all on this. Mr. Park asked Mr. Price to include him on correspondence. Mr. Park stated he actually changed his mind from this morning. Mr. Park stated he had spoken with a developer who said he would prefer a church than houses in an area like that because a church is limited use. Mr. Park stated he can welcome them, but he didn't know they had eight hundred members. Mr. Park stated he understands there's supposed to be a twenty year plan, is that correct, when you file a Conditional Use Permit (see recording for detailed presentation).

01:18:28 Chair Fishman said no, that is not correct (see recording for detailed presentation).

01:18:33 Mr. Park said so they don't have to file what structures they're going to put up today and what structures they're going to put up in five years from now or ten years from now (see recording for detailed presentation).

01:18:48 Joe Haberman, Planning & Design Manager, stated they have to present a plan on what they plan on doing as it's going to be fully realized, so that could be twenty years, it could be a shorter time frame. Mr. Haberman stated you should assume it's going to be there for the life of the project, not just twenty years but beyond that, so you would look at that and all its impacts in terms of traffic and waste water and the other impacts that it might create, but there's no twenty year time frame (see recording for detailed presentation).

01:19:16 Mr. Park said so there's no such plan that has been filed, or not required (see recording for detailed presentation).

01:19:22 Mr. Haberman stated it is not required (see recording for detailed presentation).

01:19:29 Mr. Park stated they mentioned Southeast Christian so Southeast Christian started as one church and now there are ten buildings out there. We don't know if that's what their plan is; someone mentioned a school. Mr. Park stated he agrees with some of the other people on where the driveway ought to come out. Mr. Park stated he would like it in the record that there is a significant curve at the bottom of the map where you can't see it. Mr. Park indicated the location on the aerial map (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1073

01:23:24 Beverly Servino spoke in opposition of the request. Ms. Servino stated Oxford Station dead-ends at Dr. Charasika's property. Ms. Servino stated all of her neighbors (there's just five that live on the street) were approached at the neighborhood meeting with the church possibly making that an entrance and exit (Oxford Station). Ms. Servino stated the problem with that is that's a private road, so when that street needs to be paved it comes out of their pockets. Ms. Servino indicated the location on the aerial map. Ms. Servino stated her biggest concern is the sewage and the retention basin. Ms. Servino stated the traffic is very dangerous (see recording for detailed presentation).

REBUTTAL:

01:28:25 Glenn Price spoke in rebuttal. Mr. Price stated he will address the traffic issue, and he'll ask Eric Penland to respond on the issue of the on-site sewage disposal system and lagoon. Mr. Price stated there is a for sale sign on the property next door, not this property. The church does not own this land yet, but it is under contract. Mr. Price stated the proposal that the church has is for a church. It is not for a school; it is not for anything else. Mr. Price stated if they do wish to do anything else, it would have to come back to the Board. Mr. Price stated it is possible for it to do something else in the future, just as it's possible for any applicant to come back sometime in the future and make a request. Mr. Price stated that Poplar Lane, despite what we have been told, is a collector level roadway and its part of the county through-road system. Mr. Price stated there is a sight distance of 360 feet from the entryway looking down onto this curve, which is plenty of time for oncoming traffic to see where the entry point is. The roadway and its access point have been approved by the traffic review section of the Works Department. Mr. Price stated there are only two days of service, Sunday and Wednesday. Mr. Price stated he provided a condition addressing both of those days. Mr. Price stated there are other days of the week when the church will have staff members there. There will not be more than seven to ten staff members at the church during the week at times other than the services. Mr. Price stated he understands Mrs. Smith's concern that the speed limit of 30 miles per hour is not observed, but they did their stopping distance chart both at 30 miles per hour and 45 miles per hour. Mr. Price stated they are proposing to rework the dams and the outfalls on the pond and that plus the detention equals an improved drainage flow situation rather than one that is consistent with the existing situation. Mr. Price stated he thinks the issue with the traffic is one that the church is a much better neighbor than would be a subdivision at this location because a subdivision is a non-discretionary approval. Mr. Price stated the reason there isn't a subdivision being proposed is because there are no sewers

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1073

in this area, which there may be in five years. Mr. Price responded to questions from the Board Members (see recording for detailed presentation).

01:36:04 Board Member Leanhart asked a question regarding flooding. Eric Penland responded to Member Leanhart's question and explained the proposed modifications to the existing lakes and ponds. Mr. Penland stated they certainly intend to decrease the flooding that's happening there now. Mr. Penland spoke in regard to the proposed septic system and responded to questions from the Board Members (see recording for detailed presentation).

01:40:42 Beth Stuber, Transportation Supervising Engineer responded to questions from the Board Members regarding the access point. Ms. Stuber stated they discussed putting the access point at Old Poplar Lane, but there are terrain issues getting along the interstate back to the back part of the site. Ms. Stuber stated they had discussions with Jeff Brown, Assistant Director of Public Works, and after checking site distance he was comfortable with both the entrance as shown where it is now and having the residents keep their entrance where it's at now. Board Member Howard asked Ms. Stuber if she knew anything about the State widening Poplar Lane, and Ms. Stuber stated she doesn't believe they would because it's a Metro road and right now they don't have any projects listed for there (see recording for detailed presentation).

01:43:07 Board Members' deliberation

01:53:50 On a motion by Member Howard, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, and the applicant's justification, was adopted:

Conditional Use Permit to allow a private institution (church) in a Single Family Zoning District:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the applicable policies of the Comprehensive Plan, except for the requested variances and waivers, and

WHEREAS, the Board further finds that the proposal is compatible with the surrounding land uses and the general character of the area including height, bulk, scale, intensity, traffic, noise drainage, lighting, and appearance, and

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1073

WHEREAS, the Board further finds that the subject property must have Health Department approval for on-site sewage facilities. Transportation Planning and MSD have given preliminary approval. The site is within the Anchorage Middletown Fire Protection District, and

WHEREAS, the Board further finds that:

Private institutional uses, except for such uses specifically regulated elsewhere in this LDC, may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N zoning districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

The proposal complies with the listed requirements, except for item C.

- A. Except in the R-R zoning district, all structures, except fencing, and all off-street parking shall be at least 30 feet from any property line adjacent to an existing residential use or residential zoning district. In the R-R zoning district all structures, except fencing, shall be at least 150 feet from any property line and all off-street parking shall be at least 30 feet from any property line.
- B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated.
- C. **Off-street parking not located within a driveway shall be located to the side or rear of the building(s).** The number of required off-street parking spaces shall be determined by the Planning Director in consultation with the Director of Public Works based on the standards for the closest comparable use and on the particular parking demand and trip generation characteristics of the proposed use.
- D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).
- E. The Board of Zoning Adjustment may set hours of operation for the institutional use in order to minimize potential negative impacts on surrounding residential properties, and

WHEREAS, the Board further finds that the Proposal meets or exceeds all requirements of the Land Development Code, except for the variances and waiver, and

WHEREAS, the Board further finds that:

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1073

Community Form Guideline 1. The Proposal conforms to Community Form Guideline 1 and Policy I .B.3 ("Neighborhood") because the Proposal lies within the Neighborhood Form District. The proposed Kingdom Center Church building, at 25,300 square feet, is appropriately sized and has the appropriate character to be located in this vicinity.

Compatibility Guideline 3. The Proposal conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 1, 2, 5, 6, 7, 8, 9, 12, 21, 22, 23 and 28. Building materials will be primarily EIFS with brick wainscot and a standing seam metal roof as shown on the submitted architectural rendering prepared by Don Kimble, Architect. The building design is compatible with homes in the general vicinity. The proposed use of this property will generate no odors or air quality emissions. Church activities will not generate excessive volumes of traffic or cause noise in the community. All Land Development Code requirements regarding outdoor lighting will be observed and there will be no adverse visual impacts from the Proposal. Landscaping in conformance with the Land Development Code will be provided. All setbacks will be observed except where variances and a waiver have been granted [one setback variance and one height variance, and a waiver request not to have sidewalks along Poplar Lane and Old Poplar Lane]. Adequate parking pursuant to the Land Development Code has been provided.

Natural Areas and Scenic and Historic Resources Guideline 5. The Proposal conforms to Natural Areas and Scenic and Historic Resources Guideline 5 and all applicable Policies adopted thereunder, including Policies 1, 2, 3, 5, 6 and 7. There are no natural features on the site worthy of special protection. Moreover, there are no historic or distinctive cultural resources on the site. Soils are not wet or highly permeable. The site has no archaeological features thereon.

Circulation Guideline 7. The Proposal conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policies 1, 2, 3, 9 and 10. Poplar Lane and the surrounding street network have adequate capacity to handle all traffic volumes from the Proposal. Right-of-way will be dedicated to Poplar Lane as requested by the Department of Public Works. Adequate parking pursuant to the Land Development Code has been proposed, as shown on the Conditional Use Permit plan, because 282 spaces are proposed [minimum: 270 spaces; maximum: 337 spaces]. It is anticipated that the Louisville Department of Public Works or the Transportation Review Section will approve the Proposal.

Bicycle, Pedestrian and Transit Guideline 9. The Proposal conforms to Bicycle, Pedestrian and Transit Guideline 9 and all applicable Policies including Policies 1, 2 and 4 because most Church members will arrive via motor vehicle

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1073

and will walk into the Church via pedestrian walkways. Bicycle storage facilities will be located within the Church building. There is no transit service in the vicinity due to low ridership demand.

Flooding and Stormwater Guideline 10. The Proposal conforms to Flooding and Stormwater Guideline 10 and all applicable Policies adopted thereunder, including Policies 1, 2, 6, 7, 10 and 11. A stormwater assessment of the proposed site was conducted using MSD watershed plans as a guideline for development. Adequate detention facilities and an on-site sewage disposal system have been proposed as shown on the Conditional Use Permit Plan. The proposed on-site drainage system will protect "through" drainage systems based on a fully developed watershed. Peak stormwater runoff rates or volumes after development will be consistent with regional and watershed plans or will be mitigated on-site. Post-development run-off rates will not exceed pre-development rates.

Air Quality Guideline 12. The Proposal conforms to Air Quality Guideline 12 and all applicable Policies adopted thereunder, including Policy 1. The proposed land use will not be a source of ambient air quality degradation. It is anticipated that the Louisville Air Pollution Control District will approve the Proposal.

Landscape Character Guideline 13. The Proposal conforms to Landscape Character Guideline 13 and all applicable Policies adopted thereunder, including Policies 1, 2, 5 and 6. The Proposal will meet tree canopy requirements and adequate landscaping will be provided on site. Trees and other plant materials will be native species.

Infrastructure Guideline 14. The Proposal conforms to Infrastructure Guideline 14 and all applicable Policies adopted thereunder, including Policies 2, 3, 4, 6 and 7. The development will be served by existing utilities. An adequate supply of potable water and water for fire-fighting purposes will be provided via facilities of the Louisville Water Company. On-site sewage facilities will be provided in accordance with directions of the Louisville Department of Public Health (there are no sewers in the general vicinity). Utilities and utility easements will be situated where designated by each utility agency or company.

Community Facilities Guideline 15. The Proposal conforms to Community Facilities Guideline 15 and all applicable Policies adopted thereunder, including Policy 9 because the site is adequately served by fire protection services by the Anchorage-Middletown Fire Protection District.

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1073

The Proposal conforms to all other applicable Policies of the Comprehensive Plan; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1073 does hereby **APPROVE** Conditional Use Permit to allow a private institution (church) in a Single Family Zoning District, noting **RELIEF** from Item C, and **SUBJECT** to the following Conditions of Approval:

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 a private institution without further review and approval by the Board.
3. Health Department must approve on-site sewage disposal.
4. Police-managed traffic control on Sundays and Wednesdays
 - a) Sundays. On each Sunday morning from 9:30 AM [i.e., one-half (1/2) hour before services begin] until 12:30 PM [one-half (1/2) hour after services conclude], the Applicant shall, at its own expense, employ at least two (2) off-duty police officers trained in traffic control to facilitate the reasonably prompt movement of (1) vehicles entering and exiting the Church property, and (ii) vehicles otherwise traveling along Poplar Lane.
 - b) Wednesdays. On each Wednesday evening from 6:30 PM [i.e., one-half (1/2) hour before services begin] until 9:30 PM [i.e., one-half (1/2) hour after services conclude], the Applicant shall, at its own expense, employ at least two (2) off-duty police officers trained in traffic control to facilitate the reasonably prompt movement of (1) vehicles entering and exiting the Church property, and (ii) vehicles otherwise traveling along Poplar Lane.
 - c) Change of schedule. In the event the schedule of service(s) set forth above should change, the Applicant shall notify the Louisville Division of Planning and Design Services of the new schedule and the new time of police-managed traffic control which shall begin one-half (1/2) hour before

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1073

services begin until one-half (1/2) hour after services conclude. Any such notification shall be in writing with a reference to BOZA Case No. 18CUP1073.

The vote was as follows:

Yes: Members Turner, Howard, Leanhart, Vice Chair Young, and Chair Fishman

Absent: Member Buttorff

01:57:23 On a motion by Member Howard, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, and the applicant's justification, was adopted:

Waiver not to install sidewalks along Poplar Lane and Old Poplar Lane (LDC 5.8.1.B):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that Poplar Lane is a Scenic Corridor. The site is located in a rural area of the county where sidewalks do not exist. It would be in keeping with Guideline 5. Natural Areas and Scenic and Historic Resources not to have sidewalks, and

WHEREAS, the Board further finds that granting the waiver will be more in keeping with the existing conditions and the rural nature of the area, and

WHEREAS, the Board further finds that granting of the waiver will not have an impact on adjacent property owners, but will maintain the rural character of the area, and

WHEREAS, the Board further finds that the additional cost would create an unnecessary hardship for the applicant, and

WHEREAS, the Board further finds that there are no bus stops, schools, services, large subdivisions or other places to walk within the immediate vicinity and existing topography and character in the area is not conducive to sidewalks, so this waiver does not violate the Comprehensive Plan or the intent of the Land Development Code, and

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1073

WHEREAS, the Board further finds that there is no place to walk within the immediate vicinity. This area is very rural in nature and sidewalks are not appropriate. Protecting the rural character of the road is more in keeping with the Comprehensive Plan and intent of the Land Development Code, and

WHEREAS, the Board further finds that there will be no impact on adjoining property owners because there are no existing sidewalks in the area and there are no services in close proximity to which someone would need to walk, and

WHEREAS, the Board further finds that due to existing site constraints such as topography and drainage structures, the strict application of the provisions of the regulations would cause a great cost to the applicant; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1073 does hereby **APPROVE** Waiver not to install sidewalks along Poplar Lane and Old Poplar Lane (LDC 5.8.1.B).

The vote was as follows:

Yes: Members Turner, Howard, Leanhart, Vice Chair Young, and Chair Fishman

Absent: Member Buttorff

01:58:56 On a motion by Member Howard, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, and the applicant's justification, was adopted:

Variance from Land Development Code 5.3.1.C.5 to allow the proposed structure to exceed the maximum front yard setback:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect the public health, safety or welfare, but will allow for a safer traffic flow, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity, since the proposal will be located in a rural area of the county where the residences tend to be located a distance from Poplar Lane on large tracts of land, and

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1073

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public, but allows for a safer traffic flow as opposed to being closer to the Poplar Lane, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning lot, due to the topography and constraints of the property, and

WHEREAS, the Board further finds that the topography and constraints of the property are special circumstances, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, since Health Department requirements for the on-site sewage facility might not be able to be met, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant, but again the existing topography and constraints of the property, and

WHEREAS, the Board further finds that these variances are internal to the site and the building is set back from the adjacent properties on all sides. Therefore, it will have no bearing on the public health, safety, or welfare, and

WHEREAS, the Board further finds that this area is characterized by large lot residential development with homes of varying sizes. The subject property is flanked on two sides by the interstate. The proposed structure is tucked back on the site which will protect the character of the area along Old Poplar Lane. The small increase in building height won't even be perceptible with this large setback. Therefore, this variance will not alter the character of the general vicinity, and

WHEREAS, the Board further finds that tucking the church back against the interstate will actually decrease the impact to the public because it will lessen the impact on Poplar Lane and it will be a great addition to the viewshed along the interstate. Therefore, it will not cause a hazard or nuisance to the public, and

WHEREAS, the Board further finds that the increased setback is driven by existing property constraints and the building height is mitigated by the increased setback, therefore this is not an unreasonable circumvention of the requirements of the zoning regulations, and

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1073

WHEREAS, the Board further finds that the setback variance arises due to the shape and topography of the subject property. With vary narrow street frontages and challenging topography in these areas, the building cannot be built within 80' of the street. The building height variance is due to the design of the church building. This is a non-residential structure in a residential zone. Both of these are circumstances that don't generally apply to land in the general vicinity, and

WHEREAS, the Board further finds that the strict application of the regulations would make this property unbuildable and would require the Church to reduce the ceiling height in their sanctuary, thereby creating an unnecessary hardship, and

WHEREAS, the Board further finds that The circumstances are the result of existing property constraints and the applicant's desire to maximize the height of their sanctuary, and are in no way the result of actions of the applicant; and

Variance from Land Development Code 5.3.1.C.5 to allow the proposed structure to exceed the maximum building height:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect the public health, safety or welfare because of the distance from surrounding structures and property lines, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity due to the placement of the church, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public, since it will not be noticeable, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations, since churches tend to have a taller height, and

WHEREAS, the Board further finds that the topography and the constraints are special circumstances, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship, since the building's design would have to be changed, and

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1073

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicants, but are existing conditions, and

WHEREAS, the Board further finds that these variances are internal to the site and the building is set back from the adjacent properties on all sides. Therefore, it will have no bearing on the public health, safety, or welfare, and

WHEREAS, the Board further finds that this area is characterized by large lot residential development with homes of varying sizes. The subject property is flanked on two sides by the interstate. The proposed structure is tucked back on the site which will protect the character of the area along Old Poplar Lane. The small increase in building height won't even be perceptible with this large setback. Therefore, this variance will not alter the character of the general vicinity, and

WHEREAS, the Board further finds that tucking the church back against the interstate will actually decrease the impact to the public because it will lessen the impact on Poplar Lane and it will be a great addition to the viewshed along the interstate. Therefore, it will not cause a hazard or nuisance to the public, and

WHEREAS, the Board further finds that the increased setback is driven by existing property constraints and the building height is mitigated by the increased setback, therefore this is not an unreasonable circumvention of the requirements of the zoning regulations, and

WHEREAS, the Board further finds that the setback variance arises due to the shape and topography of the subject property. With vary narrow street frontages and challenging topography in these areas, the building cannot be built within 80' of the street. The building height variance is due to the design of the church building. This is a non-residential structure in a residential zone. Both of these are circumstances that don't generally apply to land in the general vicinity, and

WHEREAS, the Board further finds that the strict application of the regulations would make this property unbuildable and would require the Church to reduce the ceiling height in their sanctuary, thereby creating an unnecessary hardship, and

WHEREAS, the Board further finds that The circumstances are the result of existing property constraints and the applicant's desire to maximize the height of their sanctuary, and are in no way the result of actions of the applicant; now, therefore be it

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1073

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1073 does hereby **APPROVE** Variance from Land Development Code 5.3.1.C.5 to allow the proposed structure to exceed the maximum front yard setback (**Requirement 80 feet, Request 858 feet, Variance 778 feet**), and Variance from Land Development Code 5.3.1.C.5 to allow the proposed structure to exceed the maximum building height (**Requirement 30 feet, Request 32 feet, Variance 2 feet**).

The vote was as follows:

Yes: Members Turner, Howard, Leanhart, Vice Chair Young, and Chair Fishman

Absent: Member Buttorff

02:00:33 The meeting was recessed.

02:00:50 The meeting was reconvened.

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18VARIANCE1039

Request: Variance to allow a structure to exceed the maximum infill front yard setback and Waiver to allow a garage in the Traditional Neighborhood form district to be flush with the front façade of the house

Project Name: Caledonia Avenue Variance & Waiver

Location: 4 Caledonia Avenue

Owner/Applicant: Thomas Faversham

Jurisdiction: Louisville Metro

Council District: 9 – Bill Hollander

Case Manager: Dante St. Germain, Planner II

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency Testimony:

02:01:19 Dante St. Germain presented the case and showed a Powerpoint presentation. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jon Baker, 500 West Jefferson St., Louisville, KY 40202

Summary of testimony of those in favor:

02:06:43 Jon Baker spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18VARIANCE1039

02:12:51 Board Members' deliberation

02:13:24 On a motion by Vice Chair Young, seconded by Member Howard, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, and the applicant's justification, was adopted:

Variance from Land Development Code Section 5.1.12.A.2.a to allow a structure to exceed the maximum allowed infill front yard setback:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the setback will not adversely affect sight lines at the corner of Caledonia Avenue and the partially-unimproved alley at the end of the street, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the property is located at the end of Caledonia Avenue adjacent to a partially-unimproved alley and will not be readily visible to passers-by, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed increased setback will not create a hazardous situation at the corner of Caledonia Avenue and the alley, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the lot is irregular in shape and has alley access from a side alley which has approximately 80 feet of pavement before the pavement ends next to the subject property. Alley access at the accessory structure/use area is infeasible due to the unimproved nature of the alley at that location. To set the house closer to Caledonia Avenue would require the applicant to construct a much narrower house and forego parking on the lot, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the property is irregular in shape and has alley access only from a partially-unimproved side alley, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18VARIANCE1039

create an unnecessary hardship on the applicant by preventing the applicant from having off-street parking on the lot, due to narrowing the house such that the garage is no longer possible, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not begun construction, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; and

Waiver from Land Development Code Section 5.4.1.C.3 to allow an attached front-loaded garage to not be set back 4 feet from the front façade of the house:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as the property is located at the end of Caledonia Avenue and the front-loaded garage will not be visible to most passers- by, and

WHEREAS, the Board further finds that Guideline 3, Policies 1 and 2 call for the compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. The type of building materials may be considered as a mitigation measure and may also be considered in circumstances specified in the Land Development Code. When assessing compatibility, it is appropriate to consider the choice of building materials in the following circumstances: (1) projects involving residential infill; (2) projects involving non-residential uses; and (3) when specified in the Land Development Code. The proposal is for a residential use, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as setting back the relatively small garage would significantly impact the design of the living space, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by requiring the applicant to redesign the living space, and

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18VARIANCE1039

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1039 does hereby **APPROVE** Variance from Land Development Code Section 5.1.12.A.2.a to allow a structure to exceed the maximum allowed infill front yard setback (**Requirement 20.2 ft., Request 67.5 ft., Variance 47.3 ft.**), and Waiver from Land Development Code Section 5.4.1.C.3 to allow an attached front-loaded garage to not be set back 4 feet from the front façade of the house.

The vote was as follows:

Yes: Members Turner, Howard, Leanhart, Vice Chair Young, and Chair Fishman

Absent: Member Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1074

Request: Conditional Use Permit for Off-Street Parking Area with relief to reduce yard sizes and waivers of landscaping requirements
Project Name: Bradford Mills Lofts Off Street Parking
Location: 1134 and 1136 Reutlinger Avenue
Owner: James Wilson
Applicant: The Marian Group
Jurisdiction: Louisville Metro
Council District: 10 – Pat Mulvihill
Case Manager: Beth Jones, AICP, Planner II

NOTE: This case was heard out of order, prior to Item #6 on the Agenda.

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency Testimony:

02:16:41 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Cliff Ashburner, 101 S. 5th Street, Suite 2500, Louisville, KY 40202

Summary of testimony of those in favor:

02:26:33 Cliff Ashburner spoke in favor of the request and showed a Powerpoint presentation. Mr. Ashburner responded to questions from the Board Members (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1074

The following spoke in opposition of the request:

No one spoke.

02:34:10 Board Members' deliberation

02:34:51 On a motion by Vice Chair Young, seconded by Member Howard, the following resolution, based upon the Standard of Review and Staff Analysis, and the applicant's justification, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with Comprehensive Plan policies regarding use for off-site parking, and

WHEREAS, the Board further finds that the proposed parking area is a relatively small addition to the existing adjoining parking and will not create significant negative impacts on the general character of the area. According to the applicant, residents of the area are generally supportive of the additional off-street parking; staff has received one comment in support. Site lighting will be reviewed during the construction permit process to meet LDC standards, and

WHEREAS, the Board further finds that the proposal will not create substantial additional public facility requirements for the site, and

WHEREAS, the Board further finds that:

An Off-Street Parking Area may be permitted in a district where it is ordinarily prohibited, provided it serves a use in a building for which insufficient off-street parking space is provided, and where the provision of such parking space will materially relieve traffic congestion on the streets and when developed in compliance with the listed requirements.

- A. The area shall be located within 200 feet of the property on which the building to be served is located measured by the shortest walking distance (using sidewalks and designated crosswalks). **The proposal meets this requirement.**
- B. Walls, fences, or plantings shall be provided in a manner to provide protection for and be in harmony with surrounding residential property. **The proposal includes a 6 ft. high wood privacy fence to be installed at the**

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1074

property line adjoining the residential use. A proposed Condition of Approval will require the applicant to duplicate all landscaping and/or buffering requirements of the adjacent parking area onto the subject site

- C. The minimum front, street side, and side yards required in the district shall be maintained free of parking. The applicant is requesting relief to permit parking within the required front, rear and west side yards. These requests will make the proposed parking area dimensionally consistent with the existing parking and allow it to directly adjoin it.
- D. The area shall be used exclusively for transient parking of motor vehicles belonging to invitees of the owner or lessee of said lot. The parking area will be used for residents and their guests at the adjoining site. According to the applicant, parking passes will be issued to residents and they will have access to passes for their guests; a courtesy officer will patrol the site to ensure compliance.
- E. The approval of all plans and specifications for the improvement, surfacing, and drainage for said parking area will be obtained from the appropriate Director of Works prior to use of the parking area. The proposal has received preliminary approval from Transportation Planning and MSD.
- F. The approval of all plans and specifications for all entrances, exits, and lights shall be obtained from the department responsible for transportation planning prior to the public hearing on the Conditional Use Permit. The proposal has received preliminary approval from Transportation Planning, and

WHEREAS, the Board further finds that the parking area is well within 200 feet of the buildings that it will serve. The existing parking area at Bradford Mills Lofts will be expanded to include the subject properties, and

WHEREAS, the Board further finds that the applicant will provide screening of the proposed parking area consistent with the screening approved for the existing parking area, and

WHEREAS, the Board further finds that the front, street side, and side yards for the proposed parking area will match those of the existing parking area, and

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1074

WHEREAS, the Board further finds that the proposed parking area will be used exclusively for transient parking of motor vehicles belonging to residents or invitees of residents at Bradford Mills Lofts, and

WHEREAS, the Board further finds that the applicant will obtain approval for all plans and specifications for the improvement, surfacing, and drainage for the proposed parking area will be obtained from the appropriate Director of Works prior to use, and

WHEREAS, the Board further finds that the applicant will obtain approval for all plans and specifications for all entrances, exits, and lights from the appropriate department prior to the public hearing on the Conditional Use Permit; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1074 does hereby **APPROVE** Conditional Use Permit for Off-Street Parking Area (LDC 4.2.39), noting **RELIEF** from Item C, and Waivers of LBA dimensional and landscaping requirements (LDC 10.2.4); **(North property line from 15 ft. to 3 ft.; South property line from 15 ft. to 3 ft.; East property line from 15 ft. to 3 ft.; West property line from 10 ft. to 0 ft.)**, and **SUBJECT** to the following Conditions of Approval:

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 by and approval of 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 Off-Street Parking without further review by and approval of the Board.
3. Applicant shall match all screening and/or landscaping along front and rear property lines of subject site as was required for the existing parking area on the adjoining Bradford Mills site.
4. Subject parcels will be consolidated with the existing parking area on the adjoining Bradford Mills Lofts parcel, or an agreement for crossover parking and access will be recorded, prior to approval of final site construction plan.

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1074

The vote was as follows:

Yes: Members Turner, Howard, Leanhart, Vice Chair Young, and Chair Fishman

Absent: Member Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18VARIANCE1071

Request:	Variance to allow a detached garage to encroach into the rear yard setback
Project Name:	Woodbourne Avenue Variance
Location:	1900 Woodbourne Avenue
Owner:	David Franck
Applicant:	Anne Del Prince – Del Prince Designs, LLC
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Zach Schwager, Planner I

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency Testimony:

02:37:24 Zach Schwager presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Anne Del Prince, 640 Country Club Rd., Louisville, KY 40206

Summary of testimony of those in favor:

02:40:22 Anne Del Prince spoke in favor of the request. Ms. Del Prince responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18VARIANCE1071

02:42:22 Board Members' deliberation

02:42:31 On a motion by Member Howard, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis (noting the Condition of Approval is no longer required because the survey has been rendered to staff), and the applicant's justification, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the structure will be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as there are many detached two-car garages in the area, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed structure will be in the same area as the existing carport, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the location of the garage is restricted due to the configuration of the lot and would be utilizing an existing curb cut, which will be widened, and

WHEREAS, the Board further finds that the requested variance does arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the property does not have alley access and there is an existing curb cut in the location of the proposed garage, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by preventing the applicant from constructing a new garage, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not begun construction, and

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18VARIANCE1071

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1071 does hereby **APPROVE** Variance from Land Development Code Table 5.4.1.E.2 to allow a structure to encroach into the required rear yard setback (**Requirement 5 ft., Request 0 ft., Variance 5 ft.**).

The vote was as follows:

Yes: Members Turner, Howard, Leanhart, Vice Chair Young, and Chair Fishman

Absent: Member Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18VARIANCE1082

Request:	Variance to allow a private yard area to be less than the required 20% of the area of the lot
Project Name:	Floral Terrace Variance
Location:	628 Floral Terrace
Owner/Applicant:	Barry Sanford
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Zach Schwager, Planner I

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency Testimony:

02:43:49 Zach Schwager presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Barry Sanford, 628 Floral Terrace, Louisville, KY 40208

Summary of testimony of those in favor:

02:48:12 Barry Sanford spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18VARIANCE1082

02:49:49 Board Members' deliberation

02:49:58 On a motion by Vice Chair Young, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony heard today, and the applicant's justification, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as there will be no change in the existing private yard area. The applicant has applied for the variance to bring the existing conditions into compliance, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as there will be no change to the existing conditions of the private yard area, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the private yard area will not be altered, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as there will be no change to the existing conditions, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which generally apply to land in the general vicinity or the same zone because the lot is similar in shape and size to other lots in the area, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because there will be no change to existing conditions of the private yard area, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not begun construction, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18VARIANCE1082

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1082 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.3 to allow a private yard area to be less than the required 20% of the area of a lot (**Requirement 620.4 sq. ft., Request 240 sq. ft., Variance 380.4 sq. ft.**).

The vote was as follows:

Yes: Members Turner, Howard, Leanhart, Vice Chair Young, and Chair Fishman

Absent: Member Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18VARIANCE1072

Request:	Variance to permit a fence to exceed the permitted height
Project Name:	Kings Highway Fence
Location:	2514 Kings Highway
Owner/Applicant:	Amy Baach and Indras Moontree
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Beth Jones, AICP, Planner II

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency Testimony:

02:51:59 Beth Jones presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Amy Baach, 2514 Kings Highway, Louisville, KY 40205

Summary of testimony of those in favor:

02:56:43 Amy Baach spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18VARIANCE1072

02:57:56 **Board Members' deliberation**

02:58:12 On a motion by Member Leanhart, seconded by Member Howard, the following resolution, based upon the Standard of Review and Staff Analysis, the presentation, and the applicant's justification, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance does not adversely affect the public health, safety or welfare as it is located outside of the public right-of-way and does not interfere with pedestrian or vehicular traffic, and

WHEREAS, the Board further finds that the fencing does not alter the essential character of the vicinity as it is built of compatible materials in a decorative manner. In addition, the applicant has obtained the signature of neighbors in approval of the existing fencing, and

WHEREAS, the Board further finds that the proposed construction meets current building codes and requirements and does not cause a public hazard or nuisance through excessive noise, vibration, odor or light, and

WHEREAS, the Board further finds that the requested variance is not unreasonable as it is not out of character for residential properties in the vicinity, and

WHEREAS, the Board further finds that the fencing provides side yard privacy for a residence on a corner lot, and

WHEREAS, the Board further finds that the application of the regulation would not allow the fencing to provide the privacy for which it is intended, and

WHEREAS, the Board further finds that the fencing was constructed before the variance was sought. The applicant did apply for and receive permission to construct the fencing from the City of Kingsley, subject to a bond, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18VARIANCE1072

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1072 does hereby **APPROVE** Variance to permit a fence to exceed the permitted height in an R-5 Single-Family Residential zone (LDC 4.4.3.1); **(Requirement 4 ft., Request 6 ft., Variance 2 ft.)**.

The vote was as follows:

Yes: Members Turner, Howard, Leanhart, Vice Chair Young, and Chair Fishman

Absent: Member Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1085

Request: Conditional Use Permit to allow short term rental of dwelling units not the primary residence of the host
Project Name: Lexington Road Short-Term Rental
Location: 1318 Lexington Road
Owner: Michael Ratterman
Applicant/Representative: KeySource Properties LLC
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith
Case Manager: Beth Jones, AICP, Planner II

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency Testimony:

03:00:19 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Mike Ratterman, 2117 Edgehill Rd., Louisville, KY 40205

Summary of testimony of those in favor:

03:05:05 Mike Ratterman spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1085

03:07:40 Board Members' deliberation

03:07:55 On a motion by Vice Chair Young, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with Comprehensive Plan policies, and

WHEREAS, the Board further finds that when appropriately managed, the proposed use is compatible with surrounding development and land uses. No exterior construction or alterations to the building or the site will be required, and

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. The proposal does not appear to create substantial additional requirements for the site, and

WHEREAS, the Board further finds that:

A short term rental of dwelling unit that is not the primary residence of the host in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 or R-8A district and a short term rental of any dwelling unit in a TNZD district may be allowed upon the granting of a Conditional Use Permit. In addition to any conditions of approval, a short term rental and its host shall meet the following requirements:

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **PVA lists the existing principal structure as a single-family residence which, according to the applicant, has three bedrooms and would permit up to ten guests. The site also includes a detached garage which has a one-bedroom dwelling unit, which can accommodate six guests.**

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1085

- D. The dwelling unit shall be a single-family residence, duplex or condominium. This provision shall not be waived or adjusted. *The two dwelling units on the site are permitted by both zoning and density standards.*
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. *There is no vehicular or pedestrian access to the site from Lexington Road. The site is served by a rear alley, where six off-street spaces are available. An existing garage on the site will not be available for guest use.*
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1085 does hereby **APPROVE** Conditional Use Permit to allow short term rental of dwelling units not the primary residence of the host (LDC 4.2.63), **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

- 1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not registered with Develop Louisville and with the Revenue Commission

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1085

within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.

2. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.

The vote was as follows:

Yes: Members Turner, Howard, Leanhart, Vice Chair Young, and Chair Fishman

Absent: Member Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1089

Request: Conditional Use Permit for outdoor alcohol sales and consumption for a restaurant with variances to encroach into required setbacks and waiver of landscape requirements at rear

Project Name: Goss Avenue CUP

Location: 1031/1035/1037/1041 Goss Avenue

Owner: BCCN Real Estate Holdings LLC

Applicant: Goss Avenue Restaurant LLC

Representative: Bardenwerper Talbott & Roberts PLLC

Jurisdiction: Louisville Metro

Council District: 10 – Pat Mulvihill

Case Manager: Beth Jones, AICP, Planner II

NOTE: Member Howard left at approximately 4:22 p.m.

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency Testimony:

03:09:23 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

John Talbott, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223
Shawn Cantley, 1073 Cherokee Road, Louisville, KY 40204

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1089

Summary of testimony of those in favor:

03:23:17 John Talbott spoke in favor of the request and showed a Powerpoint presentation. Mr. Talbott responded to questions from the Board Members (see recording for detailed presentation).

03:42:32 Shawn Cantley spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

03:47:32 Board Members' deliberation

03:49:46 Meeting was recessed.

03:50:16 Meeting was reconvened.

03:50:22 NOTE: Public Hearing was reopened to allow additional testimony from Ms. Jones regarding clarification of the Conditions of Approval.

03:53:04 Board Members' deliberation

03:53:22 On a motion by Vice Chair Young, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the Comprehensive Plan, and

WHEREAS, the Board further finds that the proposal is compatible with surrounding uses and with the general character of the area, and

WHEREAS, the Board further finds that the proposed development is consistent with expectations for the property and does not substantially increase demands

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1089

on public infrastructure and facilities. The proposal has received preliminary approval from MSD and Transportation Planning, and

WHEREAS, the Board further finds that:

Outdoor alcohol sales and consumption and/or indoor live entertainment for a restaurant may be permitted in the C-1 zoning district upon the granting of conditional use permit and compliance with the listed requirements:

- A. All outdoor areas for the sale and consumption of alcohol must have designated boundaries. **The site plan shows defined boundaries for both outdoor dining areas.**
- B. Outdoor dining areas within the public right-of-way must receive approval from the agency responsible for transportation engineering and shall be designed in accordance with agency standards. **The development plan has received preliminary approval from Transportation Planning.**
- C. Outdoor dining areas adjacent to the public right-of-way shall contain a physical barrier that is at least three feet in height. The barrier should be designed to permit existing legal access from building to the adjacent public right-of-way.
- D. Outdoor dining areas that include the sale and consumption of alcohol within 50 feet of a residentially zoned or used property shall provide a six foot continuous screen as part of the designated boundary for the areas of the outdoor area within 50 feet of residentially used or zoned property. The continuous screen shall be in conformance with the LDC 10.4 Implementation Standards. **A C-1 property in residential use adjoins the site on its northwest boundary. The proposal includes a 6 ft. high wood privacy fence from the front property line to the front of the residential structure on the adjoining property. In addition, the proposal meets side yard and the landscape buffer area requirements.**
- E. This conditional use permit shall be limited to restaurant uses in C-1 that hold the following types of ABC licenses:
 - 1. Restaurant liquor and wine license by the drink for 100 plus seats
 - 2. Restaurant wine license by the drink for restaurants with seating for 100 and receives at least 70 percent gross receipts from food sales

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1089

- F. The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 2:00 a.m.; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1089 does hereby **APPROVE** Conditional Use Permit for outdoor alcohol sales and consumption for a restaurant in a C-1 zoning district (LDC 4.2.41), noting **RELIEF** from Item F, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. All development shall be in accordance with the approved district development plan, including all notes thereon, and with all applicable sections of the Land Development Code (LDC). No further development shall occur on the site without prior review of and approval by the Board of Zoning Adjustment (BOZA).
2. The Conditional Use Permit shall be exercised as proscribed by KRS 100.237 within two years of BOZA approval. If it is not so exercised, the site shall not be used for outdoor alcohol sales and consumption and/or indoor live entertainment for a restaurant in the C-1 zoning district without further review and approval by BOZA.
3. The applicant shall consolidate the subject parcels at 1031, 1035, and 1037 Goss Avenue prior to applying for a building permit.
4. There shall be no dumpster service between 10:00 p.m. and 6:00 a.m.

The vote was as follows:

Yes: Members Turner, Leanhart, Vice Chair Young, and Chair Fishman
Absent: Members Buttorff, and Howard

03:55:04 On a motion by Vice Chair Young, seconded by Member Leanhart, the following resolution, based upon the testimony heard today, the staff findings, and the justification statements, was adopted:

Waiver of all Vehicular Use Area (VUA) landscape buffer area requirements for the property line adjacent to the existing rear alley (LDC 10.2.10):

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1089

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners because most of the properties with parking by the alley in the Germantown/Schnitzelburg neighborhood have for decades lacked any type of buffer between the lots and street for parking. It is evident that the waiver will not adversely affect either lot adjacent to it, nor any other neighbor's lot. Waiving the 5 foot VUA LBA for the rear parking will not adversely affect the adjacent property owners. In the Germantown/Schnitzelburg, Traditional Form Neighborhood, it is common, accepted, and practical for the parking spaces immediately adjacent to an alley to not have any buffer, and

WHEREAS, the Board further finds that the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application. Guideline 3, Compatibility, and its applicable Policies sets forth the intent of allowing a mixture of land uses and densities near each other as long as they are designed and compatible with one another, which it is considering the commercial C-1 zoning predominant in this area. Considering the multitude of restaurants and bars in the area, there is no doubt that it is compatible with the adjacent owners and the overall area in general. The intent of Guideline 3 and its Policies is also to preserve the character of the neighborhood, which will be accomplished by allowing the architecture to be compatible with the area and the parking behind the building, toward the alley, with access to the alley, as is normal in this neighborhood. Finally, Guideline 6, Policy 3, encourages investment and redevelopment in older neighborhoods, which this waiver will continue to make possible by allowing the CUP request, adding more needed parking, and thus providing for the economic viability of the property and their uses into the future, and

WHEREAS, the Board further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because any effort to comply with the LBA standards in LDC Section 10.2.10 would necessarily require substantial loss of much needed parking, it would limit access and traffic flow through the alley, and would limit police patrols through the alley which many residents have indicated is important, and

WHEREAS, the Board further finds that strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because it would unnecessarily limit parking, impede traffic flow, and limit police access to the alley; and

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1089

Variance to permit proposed parking to encroach on the required rear yard setback (LDC Table 5.2.2):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect the public health, safety or welfare, but will rather provide much needed off-street parking for this traditional neighborhood form district, and

WHEREAS, the Board further finds that the variance will not alter the essential character of the general vicinity because it allows the buildings to approach the street as is most common with both residences and businesses throughout the traditional neighborhood, where parking in front of a building is rare, and

WHEREAS, the Board further finds that the variance will not cause a hazard or a nuisance to the public, but rather solves nuisances because it allows the building to come close to the street, with parking in the rear, and providing additional parking in an area where it is needed, and

WHEREAS, the Board further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because it allows the development to retain the essential character of the traditional Germantown/Schnitzelburg neighborhoods, while at the same time provided much needed additional parking. Additionally, it provides easy and necessary access to the alley behind the property, allowing improved traffic flow and giving law enforcement access to the alley which is a need expressed by the nearby residents, and

WHEREAS, the Board further finds that the Variance arises from special circumstances, which do not generally apply to land in the general vicinity because this is an adaptive reuse of a partially developed lot in a traditional neighborhood with pre-existing, as built conditions which already exists presently, and

WHEREAS, the Board further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because it would deprive it of much needed parking or require the improvements to not match the character of the traditional neighborhoods by pushing parking to the front of the site, and

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1089

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation because this is an adaptive reuse of a partially developed lot in a traditional neighborhood with pre-existing, as built conditions which already exists presently; and

Variance to permit the proposed building to encroach into the required infill front yard setback (LDC 5.1.12.A.2.a), and Variance to permit the proposed outdoor dining area to encroach into the required infill front yard setback (LDC 5.1.12.A.2.a):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect the public health, safety or welfare because this variance is merely aesthetic and does not affect any public health or safety issues, and

WHEREAS, the Board further finds that the variance will not alter the essential character of the general vicinity because this area is in a traditional neighborhood where there is no general consistency to the building setbacks throughout the neighborhood. In fact, several buildings in the same block and two directly across the street, at 1006 and 1000 Goss Ave., homes abut the sidewalk. Commercial properties immediately to the east also contain buildings which come all the way to the street, so this variance will be consistent with the essential character of the general vicinity, and

WHEREAS, the Board further finds that the variance will not cause a hazard or a nuisance to the public because this variance is merely aesthetic and does not affect any hazards or nuisance issues. In fact, the variance, will serve to provide a buffer by moving the commercial activity away from the front of the residences immediately to the west, the first two of which are zoned C-1, along with all of the properties across Goss Ave., and

WHEREAS, the Board further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the variance is justified since it is consistent with the character of the traditional neighborhood, it does not affect safety for health matters, but is merely one of aesthetics allowing the property to be compatible with the rest of the area, and

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1089

WHEREAS, the Board further finds that the Variance arises from special circumstances, which do not generally apply to land in the general vicinity because this is an adaptive reuse of a partially developed lot in a traditional neighborhood with pre-existing, as built conditions, and

WHEREAS, the Board further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because it would not allow the outdoor dining area which is important with the restaurants in this vibrant activity center, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation because this is an adaptive reuse of a partially developed lot in a traditional neighborhood with pre-existing, as built conditions; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1089 does hereby **APPROVE** Waiver of all Vehicular Use Area (VUA) landscape buffer area requirements for the property line adjacent to the existing rear alley (LDC 10.2.10), Variance to permit proposed parking to encroach on the required rear yard setback (LDC Table 5.2.2); (**Requirement 5 ft., Request 0 ft., Variance 5 ft.**), Variance to permit the proposed building to encroach into the required infill front yard setback (LDC 5.1.12.A.2.a); (**Requirement 19 ft., Request 9 ft., Variance 10 ft.**), and Variance to permit the proposed outdoor dining area to encroach into the required infill front yard setback (LDC 5.1.12.A.2.a); (**Requirement 19 ft., Request 0 ft., Variance 19 ft.**).

The vote was as follows:

Yes: Members Turner, Leanhart, Vice Chair Young, and Chair Fishman
Absent: Members Buttorff, and Howard

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1080

Request:	Conditional Use Permit to allow a private institutional use in an R-5 zoning district
Project Name:	Saint Xavier High School Callahan Media Center
Location:	1609 Poplar Level Road
Owner:	Saint Xavier High School
Applicant:	Burgess & Niple
Representative:	Mason Meredith
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
Case Manager:	Jon E. Crumbie, Planning and Design Coordinator

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency Testimony:

03:56:49 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Mason Meredith, 400 Blankenbaker Pkwy., Louisville, KY 40243

Summary of testimony of those in favor:

04:01:13 Mason Meredith spoke in favor of the request. Mr. Meredith stated the function and the traffic flow patterns of all three of the entrances will not be modified as part of this project, they will remain the way they are today. Mr. Meredith stated the primary intent of this project is the renovation of the Callahan Media Center. Mr. Meredith stated the Media Center is essentially the library for

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1080

the school. Mr. Meredith referred to a poster board aerial. Mr. Meredith responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

04:13:04 Board Members' deliberation

04:14:11 On a motion by Member Leanhart, seconded by Vice Chair Young, the following resolution, based upon the Standard of Review and Staff Analysis, and the presentation today, and noting Relief from Item C, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the applicable policies of the Comprehensive Plan, and

WHEREAS, the Board further finds that the St. Xavier campus has been in the area for several years and is consistent with surrounding land uses with respect to height, bulk, scale, odor, drainage, dust, and appearance, and

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed and approved the proposal. The Louisville Fire District #4 did not comment on the proposal, and

WHEREAS, the Board further finds that:

Private institutional uses, except for such uses specifically regulated elsewhere in this LDC, may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N zoning districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

- A. Except in the R-R zoning district, all structures, except fencing, and all off-street parking shall be at least 30 feet from any property line adjacent to an existing residential use or residential zoning district. In the R-R zoning district all structures, except fencing, shall be at least 150 feet

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1080

from any property line and all off-street parking shall be at least 30 feet from any property line.

- B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated.
- C. Off-street parking not located within a driveway shall be located to the side or rear of the building(s). The number of required off-street parking spaces shall be determined by the Planning Director in consultation with the Director of Public Works based on the standards for the closest comparable use and on the particular parking demand and trip generation characteristics of the proposed use. ***A portion of the off-street parking area will be located toward the front of the building along Poplar Level Road.***
- D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).
- E. The Board of Zoning Adjustment may set hours of operation for the institutional use in order to minimize potential negative impacts on surrounding residential properties; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1080 does hereby **APPROVE** Conditional Use Permit to allow a private institutional use in an R-5 zoning district and Neighborhood Form District, noting **RELIEF** from Item C, and **SUBJECT** to the following Conditions of Approval:

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 a private institutional use without further review and approval by the Board.

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1080

The vote was as follows:

Yes: Members Turner, Leanhart, Vice Chair Young, and Chair Fishman
Absent: Members Buttorff, and Howard

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1084

Request:	Conditional Use Permit to allow a short term rental
Project Name:	Szot Short Term Rental
Location:	1405 Morton Avenue
Owner/Applicant:	Lisa and Thomas Szot
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Jon E. Crumbie, Planning & Design Coordinator

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency Testimony:

04:16:20 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jonathan Klunk, 1372 S. 6th Street, Louisville, KY 40208

Summary of testimony of those in favor:

04:21:33 Jonathan Klunk spoke in favor of the request. Mr. Klunk stated they do not provide full management services for this particular property being that they have a permanent tenant on the first floor that they handle the management for, however, they are their local on-site contact. Mr. Klunk stated he's just seeing the comments that were provided today so he doesn't have any comment on that. Mr. Klunk stated he thinks time is needed to digest the information as many of these pieces have not been brought to their attention prior to today. Mr. Klunk stated this neighborhood has a very high rental density.

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1084

Mr. Klunk stated the potential for nuisance and noise all caused by short term rentals seems to be one of the fears that neighbors might expect. Mr. Klunk stated on the first floor of the house there are two long term tenants and there have been many noise violations against them; they have been reported by some of the neighbors who will be speaking as having loud outdoor sex on many occasions to the point where they can't even open their windows. Mr. Klunk stated he thinks that goes to show you essentially never know, whether short term or long term, what's going to happen. Mr. Klunk stated the homeowners have had numerous conversations with the neighbors and have made adjustments to many of the house rules to take their concerns to heart. Mr. Klunk stated the neighbors have made mention of parking and they will be very forthcoming in communicating with the guests to not impede on the neighbors' comfortability. Mr. Klunk stated this is a duplex property and the first floor does have a long term tenant so they are seeking the short term rental for the second floor. Mr. Klunk responded to questions from the Board Members (see recording for detailed presentation).

04:34:00 Chair Fishman swore in all parties who were signed in to speak in opposition (see recording for detailed presentation).

The following spoke in opposition of the request:

Coy Travis, P.O. Box 573, Hillview, KY 40129
Ann Hannan, 1407 Morton Ave., Louisville, KY 40204
Chris Hannan, 1407 Morton Ave., Louisville, KY 40204
Lisa Wilbanks, 1404 Christy Ave., Louisville, KY 40204
Phillip Crowther, 1404 Christy Ave., Louisville, KY 40204
Kathryn Chapman, 1428 Christy Ave., Louisville, KY 40204

Summary of testimony of those in opposition:

04:34:39 Coy Travis spoke in opposition of the request. Mr. Travis stated he is happy to know that Mr. Klunk is involved in this because he has been attempting to find out who was going to be representing the owners for some time. Mr. Travis stated one of his clients was informed in the last few days that the long term tenant is who's going to be managing the property. Mr. Travis stated as to the nature of Mr. Klunk's involvement, he's not sure from his testimony what that's going to be because he just said they're not going to be completely managing this property. Mr. Travis stated there were problems this

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1084

weekend with noise issues. Mr. Travis said where was the responsiveness, where was the help at that time – these owners are in Oregon. Mr. Travis stated if this is going to be granted, which they very strongly oppose this application, but if it is going to be granted, they absolutely would want to insist on strict management of this property. Mr. Travis responded to questions from the Board Members (see recording for detailed presentation).

04:43:05 Ann Hannan spoke in opposition of the request. Ms. Hannan stated she had met with Lisa Szot and she was told their touch point person would be their long term renter, which concerns her, and that Mr. Klunk's group would be doing their cleaning and if there was an emergency issue. Ms. Hannan stated they have called the police multiple times and LMPD refuses to show up saying it is a domestic situation between neighbors. Ms. Hannan responded to questions from the Board Members (see recording for detailed presentation).

04:48:36 Chris Hannan spoke in opposition of the request (see recording for detailed presentation).

04:50:47 Lisa Wilbanks spoke in opposition of the request. Ms. Wilbanks stated she had to take off work to come here today. Ms. Wilbanks stated she has called the police at least twenty times in the last two years because of noise issues. Ms. Wilbanks spoke in regard to parking issues (see recording for detailed presentation).

04:56:17 Phillip Crowther spoke in opposition of the request. Mr. Crowther stated the value of their property and their standard of living is being affected by people who live in Oregon and Nashville, not their neighbors. Mr. Crowther spoke in regard to the noise issues (see recording for detailed presentation).

04:58:42 Kathryn Chapman spoke in opposition of the request (see recording for detailed presentation).

05:00:04 Mr. Travis stated they did have one other member who was here, but unfortunately she had to leave. Mr. Travis stated the one thing he would conclude with is they have a neighborhood plan for a reason that talks about not having the commercial life of Baxter and Bardstown intrude into the neighborhood's predominately single family residential structure. Mr. Travis stated they have a neighborhood plan that talks about contributing to that without preventing the neighborhood from transforming into a rental or apartment district and allowing it to maintain its current diversity. Mr. Travis stated if we have a neighborhood plan that states this shouldn't be a rental or apartment district, why

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1084

would we further expand these short term rentals that only exacerbate that concern (see recording for detailed presentation).

REBUTTAL:

05:01:03 Jonathan Klunk spoke in rebuttal. Mr. Klunk stated at one time in the past he had made statements about bachelorette parties, bachelor parties and the fact that these properties are acting essentially as hotels. Mr. Klunk stated if you went back to that article and you read further you would see that the reason he made the statement making comparisons to a hotel is because they pay the same tax that hotels pay, not because they are acting in function, but in form. Mr. Klunk stated this property owner has also limited bachelor and bachelorette parties and in fact she's watching the live stream and sending texts and she says "what bachelor parties, it's four people". Mr. Klunk stated that since the owner cannot be here, she is watching the live stream and he wanted to read some of the text messages because she is replying directly to what has been said here today. Mr. Klunk read Ms. Szot's messages into the record. Mr. Klunk stated many of the remarks today he hopes will be taken in the context of these particular property owners have only owned the property for a few months. Mr. Klunk stated the former landlord was not a responsible party and they asked if there were any issues and none were disclosed to them. Mr. Klunk stated it wasn't until they held the neighborhood meeting that they learned about the first floor tenant and the issues that they were having. Mr. Klunk stated the owner has zero intention of renewing the long term renter's lease, but they look forward to finding a new tenant, and if this tenant needs to be evicted prior to that for due cause, they will absolutely do that. Mr. Klunk spoke in reference to neighborhood plans, HOA's, and single-family residences. Mr. Klunk said he has no idea how any neighborhood in the Highlands will ever be able to eliminate rentals completely. Mr. Klunk responded to questions from the Board Members (see recording for detailed presentation).

05:19:12 Board Members' deliberation

05:24:19 On a motion by Vice Chair Young, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1084

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal does not conflict with Comprehensive Plan policies, and

WHEREAS, the Board further finds that the proposal is compatible with surrounding development. No exterior alterations to the existing structure or site are proposed, and

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. The proposal will not create substantial additional requirements for the site, and

WHEREAS, the Board further finds that:

Short Term Rental of a dwelling unit that is not the primary residence of the host in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 or R-8A district and Short Term Rental of any dwelling unit in a TNZD district may be allowed upon the granting of a Conditional Use Permit. In addition to any conditions of approval, a short term rental and its host shall meet the following requirements:

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. ***The applicant states that the residence has two bedrooms that will allow a maximum number of eight guests. The applicant states that the unit will be marketed with a four occupant maximum, and this will be a part of the house rules.***
- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted.
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1084

- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. ***The site has credit for one on-street parking space and does not have off-street parking at the rear.***
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1084 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the owner in an UN zoning district and Traditional Neighborhood Form District, **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not registered with Develop Louisville and with the Revenue Commission within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.
2. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.

The vote was as follows:

Yes: Members Turner, Leanhart, Vice Chair Young, and Chair Fishman

Absent: Members Buttorff, and Howard

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1044

Request: Conditional Use Permit to allow a self-storage facility within a C-2 District with variances for setback encroachments and landscaping waivers

Project Name: Self-Storage Facility

Location: 2217 Goldsmith Lane

Owner: Alley Storage Investors, LLC.

Applicant: Derik Leary, Kimley-Horn

Jurisdiction: Louisville Metro

Council District: 26 – Brent Ackerson

Case Manager: Steve Hendrix, Planning and Design Coordinator

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency Testimony:

05:27:00 Steve Hendrix presented the case and showed a Powerpoint presentation. Mr. Hendrix responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Derik Leary, 2400 Corporate Exchange Dr., #120, Columbus, OH 43231
Prateek Gupta, 1100 Bellewood Rd., Anchorage, KY 40223

Summary of testimony of those in favor:

05:33:50 Derik Leary spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1044

05:39:40 Prateek Gupta stated he is curious if there are any requirements as far as landscaping to address the flood plaining issues. Mr. Gupta said he is interested in general upkeep and landscaping because they share a common access through the bridge into the area (see recording for detailed presentation).

05:41:09 Mr. Leary stated his understanding is they're going to have to go through landscaping approval through Planning, and besides the waivers and what they're requesting they're meeting what is required per code (see recording for detailed presentation).

05:42:36 Chair Fishman asked Mr. Gupta if he had seen the site plan. Mr. Gupta stated he has seen it, and he's just more curious about the bridge itself that goes over a stream, and he was just curious about the state of the bridge or if that has been inspected or if that was going to be redone. Mr. Gupta responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

05:46:29 Board Members' deliberation

05:47:04 On a motion by Vice Chair Young, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Conditional Use Permit to allow a self-storage facility in a R-4 zoning district, noting Relief from Item G:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the applicable policies of the Comprehensive Plan, and

WHEREAS, the Board further finds that the proposal is compatible with the surrounding land uses and the general character of the area including height, bulk, scale, intensity, traffic, noise drainage, lighting, and appearance, and

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1044

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed the proposal, and

WHEREAS, the Board further finds that:

Specific standards required to obtain the conditional use permit:

- A. The property shall be landscaped so as to blend in with the surrounding area and shall be screened and buffered from adjacent uses of a non-industrial nature. **The proposal provides appropriate transitions to adjacent residential zoning through the use of landscape buffer yards, setbacks and screening. Setbacks and building heights are compatible with nearby properties.**
- B. No building, structure or pavement shall be located closer than 30 feet to side property lines or property lines abutting residential areas. This area is reserved as a landscape buffer area. **The proposal provides a minimum 13 foot landscape buffer area adjacent to the property line where relief is being sought.**
- C. No outside storage shall be allowed on the property. **No outdoor storage areas are proposed on the development plan.**
- D. No storage of toxic or hazardous materials shall be allowed on the property. **No toxic or hazardous materials will be stored on the property.**
- E. There shall be no retail or wholesale sales or distributing activities on site. **No retail or wholesale or distributing activities are proposed on the site.**
- G. No structure on the site shall be taller than one story and shall not exceed 15 feet in height (except for one freestanding sign as allowed in H below). **The applicant is seeking relief of this requirement to allow the structure an overall height of 39 feet and 10 inches.**
- H. Signs - Only one freestanding sign shall be allowed and shall conform to limits established for the form district in which the sign is located. **Signage is attached the building;** and

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1044

Variance from Land Development Code 5.3.2.C.2.b to allow the dumpster enclosure and parking maneuvering area to be located 13 feet from the east property line at its closest point:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not alter the essential character of the general vicinity because the existing bowling alley and pavement were close to the eastern property line, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the dumpster does not create any type of sight distance concern and is not close to any neighboring structure, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the proposal appears to be the best location at the existing time, and

WHEREAS, the Board further finds that the existing location of the neighboring structures and the placement of the proposed building are special circumstances, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, since the site design would have to change, and

WHEREAS, the Board further finds that the applicant is not responsible for the location of the existing structure on site and the lot configuration; and

Variance from Land Development Code 5.3.2.C.2.b to allow the parking maneuvering area to be located 19 feet from the rear (north) property line at its closest point:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect the public health, safety or welfare since there will still be at least an 18 foot wide landscape buffer area, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity because the bowling alley/pavement appears to have been close to the property line, and

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1044

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the building will still be approximately 50 feet from the property line, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the northern boundary will be buffered, and

WHEREAS, the Board further finds that the existing shape of the lot and the access of the proposed structure are special circumstances, and

WHEREAS, the Board further finds that the strict application of the regulation would create an unnecessary hardship on the applicant since the site design would have to be changed, and

WHEREAS, the Board further finds that the applicant is not responsible for the shape of the existing lot and its access; and

Waiver from LDC 10.2.4.A to allow the reduction of the proposed Landscape Buffer Area (LBA) to be 13 feet on the east side:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect the adjacent property owner since most of the landscape buffer area requirements are being made along this of the property, and

WHEREAS, the Board further finds that Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within suburban areas. As mentioned above, most of the landscaping requirements along this side of the property is being met, and

WHEREAS, the Board further finds that this is the minimum necessary to afford relief to the applicant and at the same time have the dumpster at this location, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since moving the dumpster would affect the circulation pattern of the site; and

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1044

Waiver from LDC 10.2.4.A to allow the reduction of the proposed Landscape Buffer Area (LBA) to be 19 feet along the rear (north side):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners, since the amount of landscaping will still be installed, and

WHEREAS, the Board further finds that Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within suburban areas. The applicant will still have 19 feet to install the landscaping, and

WHEREAS, the Board further finds that this is the minimum necessary to afford relief to the applicant and at the same time have the building and circulation as shown, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, since the site design would have to be changed; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1044 does hereby **APPROVE** Conditional Use Permit to allow a self-storage facility in a R-4 zoning district, Variances to allow proposed encroachments into the east side and rear yard setbacks (**East Side Yard Setback Dumpster/Maneuvering Area Requirement 25 feet, Request 13 feet, Variance 12 feet**); (**Rear Yard Setback [Maneuvering] Requirement 25 feet, Request 18 feet, Variance 7 feet**), and Waivers to reduce the Land Buffer Areas along the east side and rear property lines (**East Side Landscape Buffer Area Requirement 25 feet, Request 13 feet, Waiver 12 feet**); (**Rear Yard Landscape Buffer Area Requirement 25 feet, Request 18 feet, Waiver 7 feet**), noting **RELIEF** from Item G, and **SUBJECT** to the following Conditions of Approval:

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.

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

CASE NUMBER 18CUP1044

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 a self-storage facility without further review and approval by the Board.

The vote was as follows:

Yes: Members Turner, Leanhart, Vice Chair Young, and Chair Fishman
Absent: Members Buttorff, and Howard

05:48:40 On a motion by Vice Chair Young, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that all of the applicable Guidelines and Policies of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1044 does hereby **APPROVE** Category 3 Review.

The vote was as follows:

Yes: Members Turner, Leanhart, Vice Chair Young, and Chair Fishman
Absent: Members Buttorff, and Howard

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

PUBLIC HEARING

BOZA_Bylaws

Request: Proposed By-law Amendments – for discussion only
Case Manager: Chris French, AICP, Planning Supervisor


An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

05:49:28 Chris French stated in follow up to the discussion from the last BOZA meeting regarding the neighborhood meetings criteria to add to the Board Bylaws, he has attached to this agenda a copy of proposed changes to the Bylaws that incorporate that discussion. Mr. French stated he would just ask the Board to look those over and bring back any comments they may have at the next meeting.

NOTE: This agenda item was for informational purposes only; therefore, no vote or action was taken.

BOARD OF ZONING ADJUSTMENT MINUTES
October 1, 2018

The meeting adjourned at approximately 7:08 p.m.


Chair


Secretary