

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

December 5, 2016

A meeting of the Louisville Board of Zoning Adjustment was held on December 5, 2016, at 8:30 a.m. at the Old Jail Building, 514 W Liberty Street, Louisville, KY 40202.

Members present:

Mike Allendorf, Chair
Betty Jarboe, Vice Chair
Rosalind Fishman, Secretary
Dean Tharp
Lula Howard
Paul Bergmann

Chair Allendorf arrived at approximately 8:40 a.m.

Member absent:

Lester Turner, Jr.

Staff members present:

Emily Liu, Planning Director
Joe Haberman, Planning Manager
Brian Davis, Planning Manager
Jon Crumbie, Planning Coordinator
Steve Hendrix, Planning Supervisor
Brian Mabry, Planning Supervisor
Ross Allen, Planner I
Beth Jones, Planner II
John Carroll, Legal Counsel
Kristen Loeser, Management Assistant

The following cases were heard:

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BUSINESS SESSION

Approval of the November 21, 2016 BOZA Meeting Minutes

00:02:14 On a motion by Board Member Howard, seconded by Board Member Bergmann, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of its meeting conducted on November 21, 2016.

The vote was as follows:

Yes: Fishman, Howard, Jarboe, Bergmann, and Tharp

Absent: Allendorf and Turner

Abstain: None

No: None

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BUSINESS SESSION

PUBLIC MEETING CALENDAR

00:04:04 On a motion by Board Member Bergmann, seconded by Board Member Fishman, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the 2017 Public Meeting Calendar.

The vote was as follows:

Yes: Fishman, Howard, Jarboe, Bergmann, and Tharp

Absent: Allendorf and Turner

Abstain: None

No: None

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PUBLIC HEARING

CASE NUMBER 16CUP1045

Project Name:	None
Location:	1971 Richmond Drive
Owners:	NCS Properties III, LLC
Applicant:	NCS Properties III, LLC
Representative(s):	Gordon Rose, Ann Richard
Project Area/Size:	0.26 acres
Existing Zoning District:	R-5, Residential
Existing Form District:	TN, Traditional Neighborhood
Jurisdiction:	Louisville Metro
Council District:	8 – Tom Owen
Case Manager:	Jon E. Crumbie, Planning & Design Coordinator

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

An audio/visual recording of the Board of Zoning Adjustment meeting 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:

00:04:50 Jon Crumbie presented the case. He stated that he had not received any information from either party since the November 7, 2016 BOZA hearing (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N Hurstbourne Pkwy., Louisville, KY 40223
Anne Richard, 503 Washburn Ave., Louisville, KY 40222

Summary of testimony of those in favor:

00:05:38 Nick Pregliasco spoke on behalf of the applicant and provided a summary of the case. He stated that there was no agreement reached between the applicant and the opposition.

00:11:05 Ann Richard, Land Design Development, stated that there is existing landscaping along Richmond Drive frontage. There is no construction proposed for the existing parking lot.

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The following spoke in opposition to the request:

Jessica Smith, 201 Thierman Lane, Louisville, KY 40207

Summary of testimony of those in opposition:

00:14:00 Jessica Smith spoke on behalf of the business owners in opposition. Following the November 7, 2016, she reached out to the applicant's representation, but did not receive a response. The opposition feels that the applicant has room to negotiate other parking options with them, but they refuse to do so. Ms. Smith argues that the applicant purchased the property at a reduced rate because of the existing conditional use permit.

Rebuttal:

00:17:40 Mr. Pregliasco stated that an agreement could not be reached because all the spaces in the lot are required in order to meet the Land Development Code. The neighboring business owners have no legal right to park on the property; no past agreement was ever established. The property will be used as a restaurant, and all parking will be needed.

00:24:11 Ms. Richard explained that they are able to apply a 10% reduction in parking since the property is located near a TARC stop. By utilizing this reduction, as well as the five additional on-street spaces, they are able to meet the Land Development Code parking requirements. The existing parking lot needs to be restriped to meet the handicap accessibility requirements.

00:26:06 Mr. Pregliasco stated that the parking area will be lit at night.

Opposition:

00:27:35 Ms. Smith stated again that the purpose for coming back to the Board today was to come to an agreement with the applicant, not for them to hire additional council and update their presentation. The business owners she represents have relied on this conditional use permit for over 20 years, and the applicant was aware of this at the time of purchase. There is no lease or written agreement; her clients' claim of right is the conditional use permit.

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Rebuttal:

00:30:30 Mr. Pregliasco stated that the purchase price was reduced because the property was being sold "as is" and the applicant was willing to move quickly. As stated, the opposition has no legal right to use the parking lot other than the condition of approval that can be abandoned by the applicant.

00:31:33 Deliberation

00:41:39 On a motion by Board Member Howard, seconded by Board Member Tharp, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the Comprehensive Plan since the parking area is paved and striped to meet Land Development Code requirements, and

WHEREAS, the Board further finds that the proposal is compatible with surrounding land uses with respect to scale, intensity, traffic, drainage. The site has been used for parking for a number of years, and

WHEREAS, the Board further finds that transportation Planning and the Metropolitan Sewer District have reviewed and approved the plan. The Louisville Fire District #4 did not provide comments on the proposal, 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. There are six requirements and all have been met, and

WHEREAS, the Board further finds that 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), and

WHEREAS, the Board further finds that walls, fences, or plantings shall be provided in a manner to provide protection for and be in harmony with surrounding residential property, and

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WHEREAS, the Board further finds that the minimum front, street side, and side yards required in the district shall be maintained free of parking, and

WHEREAS, the Board further finds that the area shall be used exclusively for transient parking of motor vehicles belonging to invitees of the owner or lessee of said lot, and

WHEREAS, the Board further finds that 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, and

WHEREAS, the Board further finds that 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; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1045, does hereby **APPROVE** the modified Conditional Use Permit to amend condition of approval #4, **SUBJECT** to the following conditions of approval:

Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan. No further development shall occur on the site without prior review and approval by the Board.
2. No site preparation or construction of the off-street parking lot shall begin until the applicant obtains construction approval from the Metropolitan Sewer District.
3. Prior to the use of the site for an off-street parking lot, the applicant shall consolidate the two parcels by appropriate legal means.
4. The off-street parking lot shall be used only by ~~members and guests of the Calvary Evangelical Lutheran Church, and businesses in the 1900 block of the west side of Bardstown Road~~ **the tenants and occupants of 1838 Bardstown Road and their respective customers and invitees.**
5. The off-street parking are shall be landscaped in accordance with the provisions of Article 12 of the Zoning district Regulations. A landscaped plan for this site shall be

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approved by the staff landscape architect prior to construction of the off-street parking lot.

6. The conditional Use Permit shall be "exercised" as described in KRS.100.237 within one year of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for an off-street parking lot without further review and approval by the Board.
7. The parking area shall not extend beyond the front building lines of the existing housing on the street.
8. There shall be no removal of trees along the front property line.
9. The dirt shall be replaced on the green space area.
10. There shall be no curb cut, or any entrance or exit for vehicles on Richmond Drive.
11. Bushes shall be placed at the rear of the lawn area to screen the new parking area.
12. Steps shall be provided for Richmond Drive onto the parking area.
13. Lighting for the parking area shall be controlled from the church and will not remain on all night.
14. Any landscape waivers required shall be approved by the Land Development and Transportation committee of the Planning Commission.

The vote was as follows:

Yes: Howard, Allendorf, Bergmann, and Tharp

Absent: Turner

Abstain: None

No: Jarboe and Fishman

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CASE NUMBER 16VARIANCE1075

Project Name:	Axis Apartments
Location:	1373 Lexington Road
Owner:	Axis Louisville LLC
Applicant:	Cityscape Residential
Representative:	Cityscape Residential
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Beth Jones, AICP, Planner II

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

An audio/visual recording of the Board of Zoning Adjustment meeting 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:

00:44:58 Beth Jones presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Lisa DeJaco, 500 W Jefferson St., Suite 2800, Louisville, KY 40202

Summary of testimony of those in favor:

01:01:13 Lisa DeJaco stated that the building is six stories in total with five floors of apartments atop a garage on the first floor. The sign will not be visible from the road, and the height of the sign will not visually impact the structure due to the decline of the land. Utility boxes will be located in the front of the property surrounded by landscaping. Two signs will provide balance to the front of the building and practical use.

01:13:19 Deliberation

01:15:58 On a motion by Vice Chair Jarboe, seconded by Board Member Bergmann, the following resolution was adopted:

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that all adjacent properties are vacant or in use for non-residential purposes, and

WHEREAS, the Board further finds that Guideline 3 Policy 9 of Cornerstone 2020 requires protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. The proposed signage will not violate Cornerstone 2020 guidelines as it is not visible from single-family residential dwellings, and

WHEREAS, the Board further finds that the applicant is requesting two awning signs. LDC 8.3.2 requires that "All permanent on-premises residential signs shall conform to the standards listed in Table 8.3.1". According to LDC Table 8.3.1, which defines sign area, height, and quantity requirements, this development is limited to one sign. Although the table does not specifically name awning signs, it is clear that the intent is to limit the overall number of signs on a site such as this to one.

The applicant has received staff approval (16DEVPLAN1187) to install a signature entrance at each of the development's two access points from Lexington Road. These were approved based on LDC 8.3.2, which states that "a signature entrance may be provided in lieu of the signs permitted in Table 8.3.1." This is further evidence of the intent of the regulations to strictly limit the overall number of signs.

The applicant states that the proposed signage is needed for "visual marketing and advertising of the development, and specifically the clubhouse and leasing office", which are located on the ground level of the building where the signs are proposed to be located. This building is directly adjacent to the primary signature entrance, which could be used for the stated purpose of marketing and advertising. Directing residents and visitors to the office and clubhouse could be accomplished through on-site incidental signage, and

WHEREAS, the Board further finds that the development as a whole is well-designed and meets or exceeds all regulatory requirements. Excessive signage in the public realm, however, could lessen its overall beneficial effect on the area, and

WHEREAS, the Board further finds that the sign is to be located within the site and as such will not adversely affect the public health, safety or welfare, and

WHEREAS, the Board further finds that the sign will not be immediately visible to passers-by and motorists, and

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WHEREAS, the Board further finds that DPW has reviewed and approved the internal circulation plan for the development and the requested variance will not interfere with public vehicular, pedestrian or bicycle circulation, and

WHEREAS, the Board further finds that the size of the proposed sign and its placement allow it to function as a focal point within the development, which is actively encouraged by the LDC in other development categories including Conservation Subdivisions, Planned Village Development and Traditional Neighborhood Centers, and

WHEREAS, the Board further finds that the lower elevation of the sign location as compared to the public realm along Lexington Road makes its height less intrusive to passers-by and motorists, and

WHEREAS, the Board further finds that the strict application of the regulation would not deprive the applicant of reasonable use of the land or create an unnecessary hardship, and

WHEREAS, the Board further finds that the natural topography of the site, not a result of the applicant's actions, contributes to the need for a larger sign, and

WHEREAS, the Board further finds that, based on the staff report, the applicant's justification, and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1075, does hereby **APPROVE** (1) the Exceptional Signage Review Sign Authorization for two awning signs and (2) the Variance to permit increase in area (**Requirement: 48 sq. ft., Request: 144 sq. ft., Variance: 96 sq. ft.**) and height (**Requirement: 10 ft., Request: 12 ft. 3 in., Variance: 2 ft. 3 in.**) for freestanding signs based on the applicant's justification and the Staff Report.

The vote was as follows:

Yes: Jarboe, Howard, Bergmann, Fishman, Tharp, and Allendorf
Absent: Turner
Abstain: None
No: None

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CASE NUMBER 16VARIANCE1087

Request:	Variance to reduce the five foot setback to a 0 foot setback.
Project Name:	1508 West Broadway Variance
Location:	1508 West Broadway
Area:	.57990 acres
Owner:	Najeh Latifalia
Applicant:	Najeh Latifalia
Representative:	Najeh Latifalia
Jurisdiction:	Louisville Metro
Council District:	4 – David Tandy
Case Manager:	Ross Allen, Planner I

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

An audio/visual recording of the Board of Zoning Adjustment meeting 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:

01:19:19 Ross Allen presented the case (see Staff Report and recording for detailed presentation).

01:24:57 On a motion by Vice Chair Jarboe, seconded by Board Member Fishman, the Board **CONTINUED** Case Number 16VARIANCE1087 to the end of the docket in order to hear testimony from the applicant.

The vote was as follows:

Yes: Jarboe, Howard, Bergmann, Fishman, Tharp, and Allendorf

Absent: Turner

Abstain: None

No: None

02:21:55 The case was reconvened upon the applicant's arrival.

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The following spoke in favor of the request:

Najeh Latifalia, 1508 W Broadway, Louisville, KY 40210

Summary of testimony of those in favor:

02:22:17 Najeh Latifalia responded to questions from the Board. He would like to build an addition to the existing structure to eliminate the small alley area on his property where people are dumping trash and vandalizing the building.

02:25:50 Deliberation

02:26:06 On a motion by Board Member Fishman, seconded by Board Member Howard, the following resolution 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 since the existing structure currently is encroaching into the rear yard setback and this is where the applicant is proposing to construct the addition which will be flush with the existing structure, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since a structure along the same alley, closer to South 16th Street has a detached structure which is at an approximate rear setback of zero feet, and

WHEREAS, the Board further finds that The requested variance will not cause a hazard or nuisance to the public since the alley is 20 feet in width, the standard alley right of way width, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the existing structure encroaches into the rear setback and the addition being flush with that structure would encroach. Furthermore, the alley has the standard alley right of way width of 20 feet meaning the structure would not encroach into the right of way but be built up to the right of way, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the

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same zone since another structure found near the corner of the alley and South 16th Street has an approximate rear setback of zero feet, 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 applicant has stated that the intent of the addition is to prevent illegal dumping on his sight from the alley. The existing structure is perpendicular to the alley and West Broadway allowing this small area to be used as an illegal dumping site as it is adjacent to an alley, 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 since the current structure, the current structure without the addition, has encroached into the rear yard setback adjacent to the alley for an unknown amount of time; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1087, does hereby **APPROVE** the Variance from the Land Development Code section 5.2.3.D.3.c to allow a proposed addition to an existing structure to encroach into the five foot rear yard setback (**Requirement: 5 ft., Request: 0 ft., Variance: 5 ft.**) based on the presentation, the Standard of Review and Staff Analysis, today's discussion, and the applicant's testimony.

The vote was as follows:

Yes: Jarboe, Howard, Bergmann, Fishman, Tharp, and Allendorf

Absent: Turner

Abstain: None

No: None

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CASE NUMBER 16VARIANCE1086

Request:	Variance to allow a proposed swimming pool to encroach into the minimum front yard setback AND a waiver to allow the pool to be constructed in a required front yard on a double frontage lot.
Project Name:	2434 Cross Hill Road Pool
Location:	2434 Cross Hill Road
Area:	.31050 acres
Owner:	Jason Lockwood
Applicant:	Jason Lockwood
Representative:	Jason Lockwood
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Ross Allen, Planner I

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

An audio/visual recording of the Board of Zoning Adjustment meeting 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:

01:26:12 Ross Allen presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Jason Lockwood, 2434 Cross Hill Road, Louisville, KY 40206

Summary of testimony of those in favor:

01:31:33 Jason Lockwood stated that he does not feel this project will impact the neighborhood aesthetically because other neighbors with similar properties also have pools. Construction plans include installation of a prefabricated pool, an aluminum fence, and a 2.5 ft. retaining wall.

01:34:25 Deliberation

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01:35:01 On a motion by Board Member Fishman, seconded by Board Member Bergmann, the following resolution was adopted:

Variance

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the proposed swimming pool will be enclosed by a 48" tall aluminum fence restricting access from the general public. The distance from the property line along Cross Hill Rd. shows a distance of 17 feet from the property line however, the shortest distance is approximately 12.5 feet from the property line along Cross Hill Rd, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since at least one other home in the general vicinity has a pool on a double frontage lot. However, the aforementioned home located at 2433 Top Hill Rd. has the residence situated closer to Top Hill Rd. and a pool located behind the front entrance to the home. Many homes along Cross Hill Rd. have garages (accessory structures) located to the front of the front entrance of the homes, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the lot slopes towards Grinstead Drive with the residence situated closer to Cross Hill Rd. The pool would be located to the front of the front entrance of the home along Cross Hill Road. Many of the homes along Cross Hill Road have accessory structures (garages) located to the front of the main entrances to their homes, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the zoning district allows for accessory buildings or uses are permitted in the zoning district. However, normally swimming pools would not be allowed in the front setback but the lot has double frontage and a sloping hill. The lot area is greater facing Grinstead Drive, having sufficient space for the swimming pool, and would allow the applicant to meet the required setbacks as established for the Traditional Neighborhood Form District, 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 since the residence to the south of the applicants address (2434 Cross Hill Rd.) has a pool on a double frontage lot. The applicant's lot is situated on a hill along Grinstead Drive restricting the front of the home. Furthermore, the principal structure is

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situated approximately 100 feet from the front lot line along Grinstead Drive leaving approximately 35 feet from the property line as found along Cross Hill Road. The frontage along Cross Hill Road with a 25 foot front yard setback only allows the applicant 10 feet of space from the front façade of the home, 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 principal structure is situated approximately 100 feet from the front lot line along Grinstead Drive leaving approximately 35 feet from the property line as found along Cross Hill Road, 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 since the applicant has not undertaken any construction to date and is asking the Board of Zoning Adjustment to consider the circumstances of the placement of the principal structure on the lot, and

WHEREAS, the Board further finds that, based on the staff report, the applicant's justification, and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Comprehensive Plan are being met, and

Waiver

WHEREAS, the Board further finds that the waiver will not adversely affect adjacent property owners since at least one other home (2433 Top Hill Road) in the general vicinity has a pool on a double frontage lot. However, the home on the aforementioned lot is situated towards Top Hill Road allowing more space for the required front yard setbacks, and

WHEREAS, the Board further finds that the waiver will not violate specific guidelines of Cornerstone 2020 Guideline 3; A 23 setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet from district standards. The proposed swimming pool will not meet front yard setbacks since this is a double frontage lot with the residence situated facing the primary entrance along Cross Hill Road, meaning the pool will be in front of the house. Although, the pool would be considered in the front of the home many homes in the general vicinity have accessory structures off of Cross Hill Road or to the front of the principal structure along Cross Hill Rd. Guideline 3; A1 states, that the proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development. The applicant's proposed swimming pool is unique to their block face but

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not unique to the area since one other home with a double frontage has a swimming pool that would be considered to the secondary frontage along Cross Hill Rd., 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 since the principal structure as situated on the lot is located closer to Cross Hill Road and is sloping towards Grinstead Drive, sufficient space is allowed for construction of the swimming pool and the location between Grinstead Drive and the principal structure would allow for sufficient space to meet the form district setbacks, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since the proposed swimming pool would be feasible in either location given the site context and positioning of the house towards Cross Hill Rd. However, the pool location to the front of the home along Cross Hill Rd. is restrained by the applicable front yard setback on both frontages, Grinstead Drive and Cross Hill Rd., however the location to the front of the residence facing Grinstead Drive would meet applicable LDC setbacks, and

WHEREAS, the Board further finds that, based on the staff report, the applicant's justification, and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1086, does hereby **APPROVE** (1) the Variance: from the Land Development Code section 5.3.1.C to allow a proposed swimming pool to encroach 12.5 feet into the front yard setback along Cross Hill Road (local road) (**Requirement: 25 ft., Request: 12.5 ft., Variance: 12.5 ft.**) and (2) the Waiver from LDC section 4.4.10.A to allow the proposed swimming pool to be constructed in the required front yard setback based on the Staff Report, the presentation, and the applicant's justification.

The vote was as follows:

Yes: Jarboe, Howard, Bergmann, Fishman, Tharp, and Allendorf
Absent: Turner
Abstain: None
No: None

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CASE NUMBER 16VARIANCE1083

Request:	Variance to allow a proposed detached garage to encroach into the Side Yard setback by approximately 2 feet.
Project Name:	432 West Ormsby Ave. Variance
Location:	432 West Ormsby Ave.
Area:	.28700 acres
Owner:	Philip Bevins
Applicant:	Joe Willis – Bluegrass Garage Builders
Representative:	Joe Willis – Bluegrass Garage Builders
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Ross Allen, Planner I

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

An audio/visual recording of the Board of Zoning Adjustment meeting 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:

01:37:37 Ross Allen presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Phil Bevins, 432 W Ormsby Ave., Louisville, KY 40203

Joe Willis, 15823 Brush Run Rd, Louisville, KY 40299

Summary of testimony of those in favor:

01:42:48 Phil Bevins stated that there is an electrical vault belonging to AT&T located underground to the east of the proposed garage site. He is seeking the variance because AT&T would not grant him permission to build over top of the vault.

01:43:45 Joe Willis stated that the garage will have gutters.

01:44:14 Deliberation

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01:44:47 On a motion by Board Member Fishman, seconded by Board Member Howard, the following resolution 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 since the detached garage is at the rear adjacent to the alley and the alley dead ends into the rear of properties facing South Sixth Street. The garage is accessible from an alley entrance from Park Ave which goes North for approximately 205 feet then takes a 90 degree turn in a Westerly direction for approximately 540 feet, ending at the rear of a property facing South Sixth Street, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since at least two other properties in the same block face have rear detached garages and several have rear parking areas, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the garage is encroaching into the side yard setback along the western property line. The western property line is adjacent to a parking area for 500 West Ormsby Ave. which has no other structures within an approximate distance of 14 feet (northwesterly), and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the parcel and principal structure pre-date any zoning regulations. The detached garage as proposed will meet all other applicable LDC requirements if the variance for the side yard setback is approved, 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 since the applicant's parcel has an LG&E easement in the rear of the yard, adjacent to the alley, forcing the applicant to move the garage to the western property line, 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 garage would either need to be reduced in size or construction could not occur. The applicant states in their justification that the garage will help with parking and with the addition of the garage will maintain the use of the private yard area, and

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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 since the applicant is seeking to come into compliance with the required variance for the side yard setback; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1083, does hereby **APPROVE** the Variance from the Land Development Code section 5.4.1.E.5 to allow a proposed detached garage to encroach into the Side Yard setback by approximately 2 feet along the western property line (**Requirement: 2 ft., Request: 0 ft., Variance: 2 ft.**) based on the Staff Report, the Standard of Review and Staff Analysis, the Certificate of Appropriateness, and the applicant's testimony.

The vote was as follows:

Yes: Jarboe, Howard, Bergmann, Fishman, Tharp, and Allendorf

Absent: Turner

Abstain: None

No: None

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CASE NUMBER 16VARIANCE1089

Request:	Variance to reduce the private yard are to less than the required 30% of the total lot area.
Project Name:	1366 South Third Street Variance
Location:	1366 South Third Street
Area:	.22290 acres
Owner:	Gregory Likins – Diversified Designs Inc.
Applicant:	Gregory Likins – Diversified Designs Inc.
Representative:	Gregory Likins – Diversified Designs Inc.
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Ross Allen, Planner I

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

An audio/visual recording of the Board of Zoning Adjustment meeting 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:

01:47:14 Ross Allen presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Brent Likins, 1522 Goshen Lane, Louisville, KY 40026

Summary of testimony of those in favor:

01:55:05 Brent Likins, Licensed Professional Engineer and brother of the applicant, spoke on the applicant's behalf. He stated that the gravel in the photographs will remain and the deck will be screened. The addition will be for his guests only, not an Airbnb.

01:59:32 Mr. Allen provided the following adjustments to the original Staff Report figures:

- Requirement = 2,850 sq. ft.,
- Request = 2,350 sq. ft.,

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- Variance = 500 sq. ft.

02:02:27 Deliberation

02:07:38 On a motion by Vice Chair Jarboe, seconded by Board Member Howard, the following resolution 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 since the proposed second story addition and accompanying second story unenclosed deck are constructed onto the garage/carriage house which is permitted within the TNZD. The deck faces interior to the applicant's property, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since at least five other accessory structures (garages/carriage houses) are located in the rear along the alley in the same block, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the three car garage existed prior to the requested variance. The second story deck is interior to the applicant's property and is only visible towards the rear of the principal structure, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because residences in the general vicinity have garages carriage houses to the rear facing the alley and this is a permitted use within the TNZD zoning district. The second story deck is facing the rear of the principal structure and is interior to the applicant's property, 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 since the deck will allow access to the proposed second story addition and is interior to the subject site, 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 proposed covered unenclosed deck is the only access to the proposed second story addition, 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

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relief is sought since the addition of the dwelling unit (second story) onto the existing garage requires the applicant to come into compliance with applicable requirements; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1089, does hereby **APPROVE** the Variance from the Land Development Code section 5.4.1.D.2 to reduce the private yard area to less than the 30% of the total lot area (**Requirement: 2,850 sq. ft., Request 2,350 sq. ft., Variance: 500 sq. ft.**) based on the Staff Report, the site plan, and the applicant's testimony.

The vote was as follows:

Yes: Jarboe, Howard, Bergmann, Fishman, Tharp, and Allendorf

Absent: Turner

Abstain: None

No: None

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CASE NUMBER 16VARIANCE1091

Request: Variance to reduce the private yard are to less than the required 20% of the total lot area.
Project Name: 156 Pennsylvania Ave. Variance
Location: 156 Pennsylvania Ave.
Area: .14750 acres
Owner: Michael Fallot – Pine Grove Design & Development
Applicant: Michael Fallot – Pine Grove Design & Development
Representative: Kathy Matheny – Cardinal Surveying
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
Case Manager: Ross Allen, Planner I

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

An audio/visual recording of the Board of Zoning Adjustment meeting 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:

02:11:46 Ross Allen presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Michael Fallot, 2206 Glenview Ave., Louisville, KY 40222

Summary of testimony of those in favor:

02:16:07 Michael Fallot responded to questions from the Board. He stated that the character of the garage would be similar to that of the house. The garage will be constructed with the same siding and roofing, and there will be gutters installed.

02:17:41 Deliberation

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02:19:03 On a motion by Vice Chair Jarboe, seconded by Board Member Bergmann, the following resolution 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 since the proposed garage will be approximately 9.35 feet at the shortest distance from the alley and at its longest 16.89 feet. Both side yard setbacks are met by LDC requirements (2 feet for an accessory structure) and the garage is located interior to the subject site, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since five homes along the same block have garages in the rear of their property facing the alley. Applicant states that the new garage will be in character with the remodeled house and other properties have similar garages, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the garage is setback approximately at the shortest distance by 9.35 feet from the alley. Applicant states that the private yard area reduction would be similar in size to the neighboring properties and the garage will help to alleviate congestion along Pennsylvania Ave, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the proposed garage meets applicable side yard setback and rear yard setback requirements. Applicant states many neighbors in the general area have garages or parking pads on similar sized lots and that the garage will stay in character with the area, 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 since the irregular shape of the applicants parcel has a 50' foot wide frontage along Pennsylvania Ave. and narrows to 25' along the rear property line abutting the alley. The applicant had demolished an existing garage, defined as obsolete in the justification, which was situated in the center rear of the rear yard and the proposed replaces the previous garage.

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 property previously had a one car garage which was situated towards the center of the rear yard and failure to approve the variance would deprive the applicant of a garage which other residences in the general vicinity/same block face have at the rear of their properties, and

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WHEREAS, the Board further finds that the property previously contained a “grandfathered” garage, and

WHEREAS, the Committee further finds that, based on the staff report, the applicant’s justification and the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1091, does hereby **APPROVE** the Variance from the Land Development Code section 5.4.1.D.2 to reduce the private yard area to less than the 30% of the total lot area (**Requirement: 1,880.7 sq. ft., Request 1,033 sq. ft., Variance: 847.7 sq. ft.**) based on the Staff Report, the site plan, and the applicant’s testimony and justification.

The vote was as follows:

Yes: Jarboe, Howard, Bergmann, Fishman, Tharp, and Allendorf
Absent: Turner
Abstain: None
No: None

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PUBLIC HEARING

CASE NUMBER 16CUP1051

Project Name:	None (Short Term Rental)
Location:	4538 South 6th Street
Owners:	Marilyn Bryan and William Gootee
Applicant:	Marilyn Bryan and William Gootee
Representative(s):	Marilyn Bryan and William Gootee
Project Area/Size:	6,000 square feet
Existing Zoning District:	R-5, Residential Single Family
Existing Form District:	TN, Traditional Neighborhood
Jurisdiction:	Louisville Metro
Council District:	21 – Dan Johnson
Case Manager:	Jon Crumbie, Planning & Design Coordinator

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

An audio/visual recording of the Board of Zoning Adjustment meeting 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:

02:28:50 Jon Crumbie presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Marilyn Bryan, 4540 S 6th Street, Louisville, KY 40214

Summary of testimony of those in favor:

02:31:52 Marilyn Bryan responded to questions from the Board. She lives in the home next door to the short term rental. It was clarified by Mr. Crumbie that the Conditional Use Permit continues for the lifetime of the property, but the license must be renewed upon purchase by a new owner. Ms. Bryan stated that parking has never been an issue for her. There is a driveway as well as street parking. She can have up to 12 people in the home per contract (2 x the number of bedrooms + 4). It is unlikely that she would ever have that many people in it at once, but she does not want to be limited.

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02:38:01 Deliberation

02:39:03 On a motion by Board Member Fishman, seconded by Board Member Howard, the following motion was adopted:

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

WHEREAS, the Board further finds that the underlying use of the property shall remain the same (single family dwelling). The proposal only involves allowing short term rentals within the existing dwelling unit. No additional development is proposed. As such, the proposal is compatible with the surrounding land uses with respect to height, bulk, scale, intensity, traffic, noise, odor, drainage, lighting and appearance, and

WHEREAS, the Board further finds that The underlying use of the property shall remain the same (single family dwelling). The proposal only involves allowing short term rentals within the existing dwelling unit. No additional development is proposed. MSD and Transportation Planning have approved the proposal, 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. ***The dwelling unit has 4 bedrooms which will allow a maximum of 12 occupants.***
- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted.

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- 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. ***The property does have a driveway that will allow 2 vehicles.***
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances; now, therefore be it
- 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, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1051, does hereby **APPROVE** the Conditional Use Permit to allow short term rental in an R-5 zoning district that is not the primary residence of the host based on today's discussion, the presentation, the Standard of Review and Staff Analysis, and the minutes from the Neighborhood Association meeting, and **SUBJECT** to the following condition of approval:

Condition of Approval

- 1. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinance.

The vote was as follows:

Yes: Jarboe, Howard, Bergmann, Fishman, Tharp, and Allendorf
Absent: Turner
Abstain: None
No: None

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CASE NUMBER 16CUP1052

Project Name: None (Short Term Rental)
Location: 922 Cherokee Road
Owner: Deirdre Seim
Host: Deirdre Seim
Representative(s): Deirdre Seim
Project Area/Size: 6,200 square feet
Existing Zoning District: R-5B, Residential Two-Family
Existing Form District: TN, Traditional Neighborhood
Jurisdiction: Louisville Metro
Council District: 8 – Tom Owen
Case Manager: Brian Mabry, AICP, Planning & Design Supervisor

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

An audio/visual recording of the Board of Zoning Adjustment meeting 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.

NOTE: This case was heard out of order as the last case on the docket.

Agency Testimony:

03:10:00 Brian Mabry presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Deirdre Seim, 937 Cherokee Rd., Louisville, KY 40204

Summary of testimony of those in favor:

03:14:43 Deirdre Seim stated that she purchased the house in February of 2014. It was converted into a single family home with six bedrooms and five full bathrooms throughout three stories. She has been using the property as a short term rental since June of 2014. Only one family will occupy the home at once per short term rental contract. She stated that no one attended her neighborhood meeting. There are no parking issues at this time.

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03:19:16 Deliberation

03:20:18 On a motion by Vice Chair Jarboe, seconded by Board Member Howard, the following resolution 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 proposal is compatible with its surroundings because the request only involves allowing a short term rental within the existing single-family dwelling. No additional development is proposed. As such, the proposal is compatible with the surrounding land uses with respect to height, bulk, scale, intensity, traffic, noise, odor, drainage, lighting and appearance, and

WHEREAS, the Board further finds that the subject property is in a developed area where public facilities are readily available. There were not any agency comments indicating that the property's existing public facilities are inadequate to serve a short term rental, 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. *The applicant has been informed of this requirement. If a contract exceeds 29 consecutive days, it is not subject to the short term rental regulations. Long term rental contracts are permitted on the property so long as the use remains single-family residential.*

B. The dwelling unit shall be limited to a single short term rental contract at a time. *The applicant has been informed of this requirement.*

C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals.

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The applicant has been informed of this requirement. The dwelling has six bedrooms and so the maximum number of individuals permitted in the short term rental is 16. The applicant has no plans to add bedrooms to the structure.

D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted.

The applicant has been informed of this requirement.

E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.

The applicant has been informed of this requirement.

F. Outdoor signage which identifies the short term rental is prohibited.

The applicant has been informed of this requirement.

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 applicant has been informed of this requirement.

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

The applicant has been informed of this requirement.

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.

The applicant has been informed of this requirement; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1052, does hereby **APPROVE** the Conditional Use Permit to allow short term rental as the primary use in an R-5B zoning district based on the Staff Report and the applicant's testimony and **SUBJECT** to the following condition of approval:

Condition of Approval

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

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The vote was as follows:

Yes: Jarboe, Howard, Bergmann, Fishman, Tharp, and Allendorf

Absent: Turner

Abstain: None

No: None

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PUBLIC HEARING

CASE NUMBER 16DEVPLAN1179

Request:	Construction of Electrical Contractor/Landscape Contractor Offices
Project Name:	Electric Blades LLC.
Location:	2810 South English Station Road
Project Size:	5.001 acres
Owner:	Bruce Stansbury – Electric Blades LLC.
Applicant:	Bruce Stansbury – Electric Blades LLC.
Representative:	Morris Talbott – Advanced Engineering and Surveying LLC.
Jurisdiction:	Louisville Metro
Council District:	20 – Stuart Benson
Case Manager:	Ross Allen – Planner I

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

An audio/visual recording of the Board of Zoning Adjustment meeting 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:

02:41:30 Ross Allen presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Morris Talbott, 319 Tucker Station Road, Louisville, KY 40243
Bruce Stansbury, 660 Duvall Lane, Finchville, KY 40022

Summary of testimony of those in favor:

02:51:02 Morris Talbott spoke on behalf of the applicant and stated that the reason for the variance is to push the building back in order to use the front portion of the land for a septic system. This location is the best place for the septic system, per the Health Department. Extensive landscaping will be installed throughout the project. The sidewalk waiver is being requested since adjoining properties in the general vicinity do not have sidewalks and because there is little to no foot traffic in this area.

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02:56:47 Electrical Contractor, Bruce Stansbury, stated that there are no gas facilities in the area of this property, so the project will be fully electric. They are considering utilizing geothermal energy or propane, depending on the cost.

02:57:49 **Deliberation**

Variance

03:03:56 On a motion by Vice Chair Jarboe, seconded by Board Member Bergmann, the following resolution 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 since the setback is greater than the maximum setback allowing for the proposed structure to be less visible from along South English Station Road, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the applicant's site lies within an M-2 zoning district, many of the existing businesses in the area are trucking related activities and there is a small residence north of the subject site that upon inspection did not seem operational, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since as stated previously many of the surrounding properties are trucking related activities, the greater setback as requested would allow for less visibility from the road as a result of the required landscaping from the parking lot being directly adjacent to South English Station Rd., and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the general area seems to be industrial as specified in the land use for M-2, however, the property north of the subject site seems to be a small farm that upon the site visit was not operational. The setback would be greater than those found east of South English Station Rd., and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone since at least one of the structures directly across from the applicant's site (across South English Station Rd.) has a setback of approximately 175 feet. Other

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businesses have setbacks within the minimum and maximum setbacks, varying in distance from the front property lines east along South English Station Rd., and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since the zoning district allows for the applicant's specified use and other businesses within the area are of similar or comparable land use types, 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 since the applicant is requesting the setback variance and has not undertaken any construction to date on the subject site; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16DEVPLAN1179, does hereby **APPROVE** the Variance from the Land Development Code, Section 5.3.1.C.5 to allow the building to exceed the maximum front setback by approximately 87 feet (**Requirement: 80 ft., Request: 167 ft., Variance: 87 ft.**) based on the applicant's testimony, and **SUBJECT** to the following conditions of approval:

Conditions of Approval

1. High density of archaeological sites all around this area. Staff requests archaeological survey, by a qualified professional archaeologist, of the project footprint that includes any ground disturbance and recommendations regarding the need for any additional investigations before the project proceeds (prior to ground disturbance). A copy of the report shall be submitted to the Kentucky Heritage Council and Planning and Design Services.
2. There are impacts to the drainage on the back of the property resulting in the need for a U.S. Army Corps of Engineers Permit.

The vote was as follows:

Yes: Jarboe, Howard, Bergmann, Fishman, Tharp, and Allendorf

Absent: Turner

Abstain: None

No: None

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PUBLIC HEARING

CASE NUMBER 16DEVPLAN1179

Sidewalk Waiver

03:06:54 On a motion by Vice Chair Jarboe, seconded by Board Member Tharp, the following resolution was adopted:

Sidewalk Waiver from LDC section 5.8.1.B to not provide a sidewalk along the 351 foot frontage of South English Station Road

WHEREAS, the Board of Zoning Adjustment finds that All developments shall provide sidewalks in the abutting right-of-way to serve the development site (same side of street). Sidewalks shall be provided along all road frontages in accordance with Section 6.2.6. The minimum sidewalk width shall be four (4) feet for local level roads, and five (5) feet for collector and arterial level roadways. The Director of Works may require greater width or, for infill sidewalks connecting existing sidewalks of lesser width, may approve a sidewalk of lesser width upon finding that divergence from the five (5) foot standard is consistent with public safety. If sidewalks are present in the public right-of-way fronting adjacent lots, the location and alignment of the new sidewalk shall connect directly with this existing network.

1. Sidewalks shall be designed in such a manner that a walkway at least 4 feet wide or other dimension as approved by the Director of Works is left unobstructed.
2. Where the sidewalk along a public street is interrupted by a curb cut, the walkway across the driveway shall be delineated, to enhance pedestrian safety. The walkway may be delineated by striping or by use of contrasting pavement materials that meet ADA standards, and

Sidewalk Waiver from LDC section 5.8.1.B to not provide a sidewalk along a 116 foot section leading to the non-residential building from the public right of way

WHEREAS, the Board further finds that this waiver is being requested in accordance with section 6.2.6.B.2. The Land Development Code states that, in certain circumstances, it is appropriate to waive the requirements for construction of the sidewalk, and

WHEREAS, the Board further finds that this site is located in a rural area. The properties on the south side and across the road have been developed without sidewalks. No sidewalks exist in the area and are unlikely to be constructed. Also, since this is a contractor's office, pedestrian traffic to this building is very unlikely, and

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WHEREAS, the Board further finds that there are few residential properties adjacent to this site. Properties across the street and to the south are already developed, without sidewalks. If this sidewalk were built, it would connect to no other sidewalk. The property to the north is zoned M-2, and

WHEREAS, the Board further finds that compliance with the Land Development Code would require the owner to build approximately 450 feet of sidewalk. This would be quite expensive and of little use in this area; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16DEVPLAN1179, does hereby **(1) DENY** the Waiver from LDC section 5.8.1.B to not provide a sidewalk along the 351 foot frontage of South English Station Road based on the Land Development Code's intention for connectivity on newly developed properties and **(2) APPROVE** the Waiver from LDC section 5.8.1.B to not provide a sidewalk along a 116 foot section leading to the non-residential building from the public right of way based on the applicant's justification.

The vote was as follows:

Yes: Jarboe, Howard, Bergmann, Fishman, and Tharp

Absent: Turner

Abstain: None

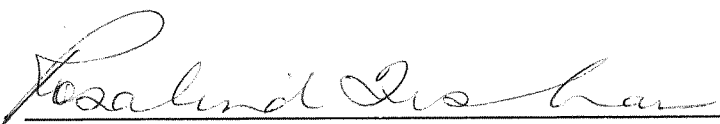
No: Allendorf

BOARD OF ZONING ADJUSTMENT MINUTES
December 5, 2016

ADJOURNMENT

The meeting adjourned at approximately 12:30 p.m.


Chair


Secretary