

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

November 19, 2018

A meeting of the Louisville Metro Board of Zoning Adjustment was held on November 19, 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
Lester Turner, Jr.
Kimberly Leanhart

Members Absent:

Richard Buttorff

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Jon Crumbie, Planning & Design Coordinator
Steve Hendrix, Planning & Design Coordinator
Lacey Gabbard, Planner I
Beth Jones, Planner II
Paul Whitty, Legal Counsel (left at approximately 4:00 p.m.)
Travis Fiechter, Legal Counsel (arrived at approximately 4:00 p.m.)
Sue Reid, Management Assistant

The following cases were heard:

NOTE: Case Number 18CUP1133 was not heard until 4:00 p.m.

**BOARD OF ZONING ADJUSTMENT MINUTES
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APPROVAL OF MINUTES

NOVEMBER 5, 2018 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:04:45 On a motion by Vice Chair Young, 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 November 5, 2018.

The vote was as follows:

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

Abstain: Chair Fishman

Absent: Member Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
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BUSINESS SESSION

CASE NUMBER 18CUP1151

Request: Modified Conditional Use Permit
Project Name: LG&E Staging Lot
Location: 201 Cabel Street
Owner: Louisville Gas & Electric Co.
Applicant: Louisville Metro and JBS/Swift
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith
Case Manager: Chris French, 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:

00:05:46 Chris French stated the applicant has requested this case be postponed to December 3, 2018 (see recording for detailed presentation).

00:06:24 On a motion by Member Howard, seconded by Member Leanhart, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **POSTPONE** Case Number 18CUP1151 to the December 3, 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

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BUSINESS SESSION

CASE NUMBER 18CUP1141

Request:	Modified Conditional Use Permit to amend the existing conditions of approval for the rehabilitation home
Project Name:	Centerstone
Location:	801 Mary Street
Owner:	JECBLA, LLC
Applicant:	Centerstone
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
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:

00:09:00 Jon Crumbie presented the case and showed the site plan. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

00:11:52 On a motion by Member Howard, seconded by Vice Chair Young, 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 applicable policies of the Comprehensive Plan, and

WHEREAS, the Board further finds that the proposal is compatible with the general character of the surrounding neighborhoods in terms of scale, intensity, traffic, noise, drainage and appearance, and

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WHEREAS, the Board further finds that the previous proposal has been reviewed by MSD and Transportation Planning and both have approved the plan. The plan did not change with the current modification, and

WHEREAS, the Board further finds that:

Rehabilitation homes may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements:

A. If using an existing residential building constructed contemporaneously with the surrounding neighborhood, its exterior appearance shall not be substantially altered.

B. New construction within an area having an established front building setback shall be constructed at the average setback line or the minimum front yard of the form district, whichever is less. Structures adjacent to residential uses or zoning districts shall increase side yards by 10 feet for each story over two.

C. One parking space on site shall be provided for each staff person, plus two spaces for each five residents, or five clients served by the rehabilitation home. Parking shall be reduced to one space per five residents/clients if the rehabilitation home serves persons with disabilities that preclude operation of an automobile.

D. One freestanding sign not to exceed 10 square feet and 4 feet in height shall be allowed.

E. The Board shall add any additional restrictions necessary to mitigate nuisances or adverse effects; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1141 does hereby **APPROVE** Modified Conditional Use Permit to amend the existing conditions of approval as follows:

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.

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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 rehabilitation home without further review and approval by the Board.
3. The maximum number of residents at any given time shall be 30.
4. There shall be at least one staff person on site at all times.
5. The rehabilitation facility shall enter into a contract with the Commonwealth Kentucky State of Corrections and this contract be granted – except for when the rehabilitation facility operates a rehabilitation home – as defined by the Land Development Code – where entering into and maintaining a contract with the Commonwealth of Kentucky Department of Corrections is not required. In the future, should residents of the rehabilitation facility change where requiring a contract is necessary or, in the alternative, where a change in residents of the rehabilitation home no longer requires a contract with the Commonwealth of Kentucky Department of Corrections, the property owner shall provide written notice to BOZA and BOZA staff.
6. The rehabilitation facility shall be gender specific.
7. The dumpster as shown on the plan shall be enclosed.
8. Deliveries that support the rehabilitation facility shall be limited to the hours of 7:00 a.m. to 6:00 p.m.

The vote was as follows:

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

Absent: Member Buttorff

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PUBLIC HEARING

CASE NUMBER 18CUP1109

Request:	Conditional Use Permit for a short-term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Brainard Short Term Rental
Location:	321 South Peterson Avenue
Owner/Applicant:	Benjamin and Amanda Brainard
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Jon E. Crumbie, Planning & Design Coordinator

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:

00:13:46 Jon Crumbie stated the applicant did not pick up the notices, so this case will need to be moved to December 3, 2018 (see recording for detailed presentation).

00:14:02 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 18CUP1109 to the December 3, 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

00:14:58 Meeting was recessed.

00:15:13 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 18DEVPLAN1164

Request:	Category 2B plan with additional requests
Project Name:	Churchill Downs Entry Gate
Location:	3100 South 4th Street
Owner/Applicant:	AQ Properties, LLC
Jurisdiction:	Louisville Metro
Council District:	15 – Marianne Butler
Case Manager:	Lacey Gabbard, 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:

00:17:08 Lacey Gabbard presented the case and showed a Powerpoint presentation. Ms. Gabbard responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:
Ashley Bartley, 1046 E. Chestnut St., Louisville, KY 40204

Summary of testimony of those in favor:

00:24:18 Ashley Bartley 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.

00:30:32 Board Members' deliberation

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CASE NUMBER 18DEVPLAN1164

00:32:07 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:

Variance from Section 5.3.5.C.3 to allow parking in the 20 foot rear yard setback:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect the public health, safety or welfare because the proposed parking is interior to the site and other Churchill Downs affiliated uses and sites, and protected from view on Central Avenue by a 10' - 22' masonry wall, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity because the proposed 10' - 22' masonry wall surrounding the parking area will visually connect the masonry wall which already exists on Central Avenue to the west, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the proposed parking is interior to the site and other Churchill Downs affiliated uses and sites, and protected from view on Central Avenue by a 10' - 22' masonry wall, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the parking lot is interior to the site and other Churchill Downs affiliated uses and sites, and protected from view; and

Variance from Section 5.3.5.C.3 to allow encroachment into the 20 foot setback abutting an R-7 zoned property:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect the public health, safety or welfare because the proposed parking is abutting an R-7 zoned property which does not currently contain any residential structures, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity because the proposed 16' tall entry gate and ticket booth bordering the South 4th Street side of the site will conceal the site from public view, and

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WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the proposed parking is interior to the site and other Churchill Downs affiliated uses and sites, and protected from view on South 4th Street by a 16' entry gate, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the parking lot is screened from view and interior to the site; and

Variance from Section 5.3.5.C.3 to allow encroachment into the 50 foot street side setback:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect the public health, safety or welfare because the proposed parking is interior to the site and other Churchill Downs affiliated uses and sites, and protected from view on Central Avenue by a 10' - 22' masonry wall, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity because the proposed 10' - 22' masonry wall surrounding the parking area will visually connect the masonry wall which already exists on Central Avenue to the west, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the proposed site does not cause a sight vision issue and does will be consistent with other development and structures in the vicinity, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the proposed development is consistent with the immediate vicinity and does not cause a hazard or nuisance; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18DEVPLAN1164 does hereby **APPROVE** Variance from Section 5.3.5.C.3 to allow parking in the 20 foot rear yard setback, Variance from Section 5.3.5.C.3 to allow encroachment into the 20 foot setback abutting an R-7 zoned property, and Variance from Section 5.3.5.C.3 to allow encroachment into the 50 foot street side setback, **SUBJECT** to the following Condition of Approval:

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CASE NUMBER 18DEVPLAN1164

Condition of Approval:

1. The corresponding Category 2B plan must be approved by Public Works.

The vote was as follows:

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

Absent: Member Buttorff

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CASE NUMBER 18DEVPLAN1165

Request:	Revised District Development Plan with Waivers and Variances
Project Name:	Churchill Downs Barn
Location:	3750 Oakdale Ave
Owner:	Louisville/Jefferson County Metro Government
Applicant:	Churchill Downs, Inc.
Representative:	Qk4
Jurisdiction:	Louisville Metro
Council District:	15 – Marianne Butler
Case Manager:	Lacey Gabbard, 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:

00:34:42 Lacey Gabbard presented the case and showed a Powerpoint presentation. Ms. Gabbard responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Ashley Bartley, 1046 E. Chestnut St., Louisville, KY 40204

Summary of testimony of those in favor:

00:39:19 Ashley Bartley 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.

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00:43:40 **Board Members' deliberation**

00:48:09 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, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect the public health, safety or welfare because the proposed dumpster is interior to the site and other Churchill Downs affiliated uses and sites, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity because the dumpster faces Churchill Downs to the west and vacant properties to the north, and will be adequately screened per LDC requirements, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the proposed parking is interior to the site and other Churchill Downs affiliated uses and sites and will be adequately screened per LDC requirements, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the dumpster is not fully encroaching into the setback; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18DEVPLAN1165 does hereby **APPROVE** Variance from Section 4.4.9.A to allow the refuse disposal container to be located in the required 15 foot setback area.

The vote was as follows:

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

Absent: Member Buttorff

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CASE NUMBER 18DEVPLAN1165

00:48:56 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, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect the public health, safety or welfare because the proposed barn is located on an angled street (South 4th Street), and only a small sliver measuring approximately 50 feet of the proposed 180 foot western facade will encroach into the setback, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity because there are several other barns located along this portion of South 4th Street on the opposite side of the road which are located in close proximity to the right-of-way. Also, the front setbacks on this site are being maintained, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the proposed barn will be located approximately 20 feet from the right-of-way at its closest point. The encroachment does not appear to create any sight triangle or visual clearance issues, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the proposed barn is encroaching into only a small portion of the setback, and

WHEREAS, the Board further finds that the requested variance does arise from special circumstances. This section of South 4th Street runs at an angle to Oakdale Avenue on the opposite side of the property, which creates an irregularly-shaped lot, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the square footage of the proposed barn would have to be reduced or the building's footprint and interior would need to be altered, 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. The applicant is not responsible for the existing angle of South 4th Street; now, therefore be it

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CASE NUMBER 18DEVPLAN1165

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18DEVPLAN1165 does hereby **APPROVE** Variance from Section 5.1.7.D to allow the barn to encroach into the 15 foot setback.

The vote was as follows:

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

Absent: Member Buttorff

00:49:27 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, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the Expansion of Nonconforming Use is adequately justified under KRS.100.253; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18DEVPLAN1165 does hereby **APPROVE** Expansion of Nonconforming Use.

The vote was as follows:

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

Absent: Member Buttorff

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1095

Request:	Variance to allow a sign to exceed the maximum height and a Sign Authorization to permit the design of the sign
Project Name:	Outer Loop Variance
Location:	4801 R Outer Loop
Owner:	Jefferson Mall CMBS LLC
Representative:	Chris Radford, Twin Shores Construction
Jurisdiction:	Louisville Metro
Council District:	24 – Madonna Flood
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:

00:50:40 Chris French presented the case on behalf of the Case Manager and showed a Powerpoint presentation. Mr. French responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Chris Radford, Twin Shores Management, 1039 State Street, Bettendorf, IA 52722

Summary of testimony of those in favor:

00:55:06 Chris Radford spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 18VARIANCE1095

The following spoke in opposition of the request:

No one spoke.

00:56:49 Board Members' deliberation

00:57:06 On a motion by Member Leanhart, seconded by Member Howard, 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 requested variance to exceed the maximum height will not adversely affect the public health, safety, or welfare as the structure will be constructed to comply with all building codes and the sign is separated from public streets by a parking lot, and

WHEREAS, the Board further finds that the requested variance for a freestanding sign to exceed the maximum height will not alter the essential character of the general vicinity as the subject property is a mall in the Regional Center Form District and the sign is located adjacent to the building with a parking lot separating the sign from adjacent right-of-way, and

WHEREAS, the Board further finds that the requested variance to exceed the maximum height will not cause a hazard or nuisance to the public as the sign will not obstruct views for drivers or pedestrians as the proposed sign is adjacent to a sidewalk next to the building separated from the right-of-way by a parking lot, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed sign is on a large lot with a large structure and parking lot separating the sign from adjacent public right-of-way; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1095 does hereby **APPROVE** Variance from Land Development Code Table 8.3.2 to allow a sign to exceed the allowable height in the Regional Center Form District (Requirement 12 ft., Request 17 ft., Variance 5 ft.).

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CASE NUMBER 18VARIANCE1095

The vote was as follows:

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

Absent: Member Buttorff

00:58:22 On a motion by Member Leanhart, seconded by Member Howard, 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 sign authorization will not adversely affect adjacent property owners as the proposed sign would be located a significant distance from neighboring properties due to the parking lot. There is also a row of trees between the parking lot and neighboring properties, and

WHEREAS, the Board further finds that the sign authorization will not violate specific guidelines of Cornerstone 2020 as Cornerstone 2020 states that signs should be compatible with the form district pattern and contribute to the visual quality of their surroundings and promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety. The proposed sign is freestanding; however, the subject property has a large parking lot reducing the impact on surrounding properties, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant as the sign could be designed so as to comply with the regulations. However, the land use and structures on the subject property reduce the impact of the proposed sign. Also, the sign authorization would allow the construction of a unique type of sign not normally permitted by the strict reading of the Land Development Code. The proposed sign would also provide visual interest to the property, and

WHEREAS, the Board further finds that the sign authorization would allow the construction of a unique type of sign not normally permitted by the strict reading of the Land Development Code. The proposed sign would also provide visual interest to the property; now, therefore be it

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CASE NUMBER 18VARIANCE1095

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1095 does hereby **APPROVE** the Sign Authorization in accordance with Land Development Code Section 8.4.1.C.3.

The vote was as follows:

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

Absent: Member Buttorff

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1094

Request:	Variance to allow a proposed fence to exceed the maximum height in the street side yard setback
Project Name:	Idle Hour Drive Fence Height
Location:	4720 Idle Hour Drive
Owner/Applicant:	Ignacio Lopez Gutierrez
Jurisdiction:	Louisville Metro
Council District:	1 – Jessica Green
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:

01:00:04 Steve Hendrix presented the case and showed a Powerpoint presentation. Mr. Hendrix stated he had received telephone calls from two neighbors who were in opposition but could not be present today. Mr. Hendrix stated the neighbors were opposed to the fence and the business; Mr. Hendrix stated the neighbors indicated the applicant wanted to put up the fence in order to hide some sort of automotive repair/body shop business on the premises. Mr. Hendrix stated Zoning Enforcement does have an inspection report; they have made one inspection and did not find any type of repair work. 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:

Yusima Lopez Cairo, 4720 Idle Hour Drive, Louisville, KY 40216

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CASE NUMBER 18VARIANCE1094

Summary of testimony of those in favor:

01:08:08 Yusima Lopez Cairo 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.

01:15:44 Board Members' deliberation

01:17:00 On a motion by Member Howard, seconded by Vice Chair Young, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony heard today, and the variance 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 since the new wooden privacy fence will not create any type of sight distance concerns, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity, since wooden privacy fences are common in the area, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public, since it will be located approximately 21 feet from the existing Idle Hour Drive pavement, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations, but will provide some privacy to the backyard and ensure safety for the proposed pool, 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, due to the shape and size of the lot and the location of the house, and

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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 would not have the privacy or pool safety as requested , 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, but are a result of the shape and size of the lot and the location of the house, and

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 18VARIANCE1094 does hereby **APPROVE** Variance from Land Development Code Chapter 4.4.3.A.1.a.i to allow a proposed six (6) foot wooden privacy fence in the required Idle Hour Drive street side yard (**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

01:18:33 Meeting was recessed.

01:19:03 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 17CUP1081

Request:	Conditional Use Permit for a Community Service Facility in an R-4 Single-Family Residential zoning district with variance
Project Name:	Harbor House Community Service Facility
Location:	2233 Lower Hunters Trace
Owner/Applicant:	Harbor House of Louisville Inc
Jurisdiction:	Louisville Metro
Council District:	12 – Rick Blackwell
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:

01:19:52 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., 2nd Floor, Louisville, KY 40223
Michael Koch, 2548 Trevilian Way, Louisville, KY 40205

Summary of testimony of those in favor:

01:32:43 John Talbott spoke in favor of the request and showed a Powerpoint presentation. Mr. Talbott reviewed the site plan and responded to questions from the Board Members (see recording for detailed presentation).

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01:46:53 Michael Koch spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:50:17 Mr. Talbott responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

01:51:26 Board Members' deliberation

01:52:35 On a motion by Member Leanhart, seconded by Member Howard, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony heard today, and the applicant's justification statement, was adopted:

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

WHEREAS, the Board further finds that the proposal is an expansion of similar existing uses and is compatible with surrounding land uses and the general character of the area, and

WHEREAS, the Board further finds that the site is adequately served by all required public facilities, and

WHEREAS, the Board further finds that:

4.2.54. Community Service Facility may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, UN, R-5A, R-5B, R-6, R-7, R-8A, M-1, M-2, M-3, W-1, W-2, W-3, TNZD (Neighborhood General) districts upon the granting of a conditional use permit and compliance with the listed requirements.

A. General Standards – All Zoning Districts

1. Parking spaces shall be determined by the board of zoning based on the number of employees and the potential number of visitors to the site as

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described by the applicant in a parking study of similar uses. **The proposal has received preliminary approval by Transportation Planning staff. According to the applicant, proposed parking will be used primarily by staff and by guests on occasion. Significant additional parking is available on the adjoining Church site; cross-access and shared parking agreements will be required by a Condition of Approval.**

2. Signage for community service facility shall be in accordance with Chapter 8 of the LDC for nonresidential uses.
 3. All applicable land development code requirements including but not limited to floor area ratio, building setback, landscape buffers and building heights shall be maintained. **The proposal meets all such requirements with the exception of the west side yard setback; a variance has been requested.**
 4. Conversion of Existing Structures: A report from the applicable fire official shall be provided to the Board outlining the necessary steps for compliance with fire code safety standards prior to establishing occupancy of the structure for the proposed use. **The proposal does not include conversions of existing structures.**
- B. Conditional Use Standards – Single Family Zoning Districts Only
1. Signs - There shall be allowed one non-illuminated sign identifying the name and use, which sign shall be limited in size to four square feet and be placed on the building.
 2. Residential Structure - The structure shall remain or shall be constructed so that the exterior design and ornamentation is residential in character and compatible with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential. **The proposal does not include residential structures. The applicant has been informed of the character and compatibility requirements.**
 3. Alterations or Improvements to the Structure - Where such a use is permitted in a structure which has been used as a residence, the permittee shall make no substantial alterations or improvements to the structure which would impair the structure's use as a residence at a later time. **The proposal does not include conversions of existing structures.**

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4. Off-street parking not located within a drive-way shall be located to the side or rear of the building(s). **The proposal meets this requirement,** and

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 18CUP1107 does hereby **APPROVE** Conditional Use Permit for a Community Service Facility in an R-4 Single-Family Residential district (LDC 4.2.54), **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 prescribed by KRS 100.237 within two years of BOZA approval. If it is not so exercised, the site shall not be used for a Community Service Facility without further review and approval by BOZA.
3. Agreement(s) providing crossover access, shared parking and access to walking trail between subject site and adjacent site at 2229 Lower Hunters Trace must be submitted to PDS staff for review. Approved agreement(s) must be recorded prior to final construction approval.

The vote was as follows:

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

Absent: Member Buttorff

01:54:22 On a motion by Member Leanhart, seconded by Member Howard, the following resolution, based upon the Standard of Review and Staff Analysis,

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the testimony heard today, and the applicant's justification statement, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met, and

WHEREAS, the Board further finds that the variance will not adversely affect the public health, safety or welfare because this is an aesthetic/nuisance issue, not a public health, safety or welfare one, and

WHEREAS, the Board further finds that the variance will not alter the essential character of the general vicinity because this project is merely an addition to an existing use, all of which is located on property already used for a church on a collector level road (Lower Hunters Trace), which is directly connected to a major arterial (Dixie Highway), and

WHEREAS, the Board further finds that the variance will not cause a hazard or a nuisance to the public because the issues here involved are not hazard or nuisance ones but rather aesthetic impact ones which are not adverse to this development, 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 will not unreasonably impact anyone. The closest neighbor's residence where the variance is requested will be shielded from the parking lot, and lights from cars by a 6 foot screen wall. The remainder of the setback variance will only impact a long back yard where the building will shield the residence from other unwanted nuisances, thereby mitigating the impact thereof, and

WHEREAS, the Board further finds that the variance arises from special circumstances, which do not generally apply to land in the general vicinity. In fact, the new building footprint is under 30,000 sq. ft., which only requires a 30 foot setback being requested, but the addition of the as-built improvements push the project slightly over the 30,000 sq. ft. threshold, 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 unnecessarily reduce

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needed parking and square footage so that the applicant can serve its "not for profit" purpose of benefiting disabled individuals, 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, but rather are a result of the confines of the space limited by the current church improvements and related activities; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1081 does hereby **APPROVE** Variance of the required west side yard setback from 50 ft. to 30 ft. (LDC Table 5.3.2), (**Requirement 50 ft., Request 30 ft., Variance 20 ft.**).

The vote was as follows:

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

Absent: Member Buttorff

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CASE NUMBER 18APPEAL1004

Request:	Appeal of an Administrative Decision
Project Name:	Southern Parkway Appeal
Location:	3818 Southern Parkway
Owner:	3818 S Parkway Land Trust
Applicant:	Michael T. Fallot
Jurisdiction:	Louisville Metro
Council District:	15 – Marianne Butler
Case Manager:	Chris French, AICP, Planning and Design Supervisor

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:

01:57:32 Chris French presented the case and showed a Powerpoint presentation. Mr. French responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the appeal:

Mike Fallot, 4165 Westport Rd., #204, Louisville, KY 40207

Summary of testimony of those in favor:

02:03:23 Mike Fallot spoke in favor of the request and responded to questions from the Board Members. Mr. Fallot provided a photo to the Board Members from the PVA website (see recording for detailed presentation).

02:15:51 Joe Haberman, Planning & Design Manager, advised the Board Members of the probable date of the PVA photo provided by the appellant (see recording for detailed presentation).

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02:16:50 Chris French responded to questions from Legal Counsel (see recording for detailed presentation).

02:17:58 Mike Fallot responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

02:19:07 Chris French stated he did not have anything to add. Mr. French responded to questions from the Board Members (see recording for detailed presentation).

02:20:48 **Board Members' deliberation**

02:25:28 On a motion by Vice Chair Young, seconded by Member Leanhart, the following resolution, based upon the testimony heard today from the appellant, the evidence that is provided in the Staff Report, and the additional evidence (pictures) that was presented today by the appellant, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18APPEAL1004 does hereby **OVERTURN STAFF DETERMINATION**, Appeal of a staff determination issued by the Office of Planning & Design Services concerning a request for nonconforming rights for a two-family dwelling (duplex) at 3818 Southern Parkway, Louisville, Kentucky, and the Board further finds that the property was a duplex in 1971 and has continuously remained a duplex to date.

The vote was as follows:

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

Absent: Member Buttorff

02:27:59 Meeting was recessed until 4:00 p.m.

02:28:57 Meeting was reconvened.

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CASE NUMBER 18CUP1133

Request: Conditional Use Permit for a community service facility in an R-6 Multi Family zoning district
Project Name: Standard Avenue Conditional Use Permit
Location: 2336 Standard Avenue
Owner: Shugg Cancer Foundation Inc.
Applicant: Ryan Band, Unbridles Homes LLC
Jurisdiction: Louisville Metro
Council District: 3 – Mary C. Woolridge
Case Manager: Chris French, Planning & Design Supervisor

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:

02:29:20 Chris French presented the case and showed a Powerpoint presentation. Mr. French responded to questions from the Board Members (see staff report and recording for detailed presentation).

02:35:22 Chair Fishman swore in all parties who were present to speak in Case Number 18CUP1133 (see recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223
Pat Durham, 2114 Highland Springs Pl., Louisville, KY 40245
Rose Smith, 645 Southwestern Pkwy., Louisville, KY 40210
Gregory Crowe, 741 Loretto Ave., Louisville, KY 40211
Shay McAlister, 1724 Edenside Ave., Louisville, KY 40204
Ryan Band, 18406 Shallowford Ln., Louisville, KY 40245
Crystal Thornton, 4135 Muhammad Ali, Louisville, KY 40210
Elesha Toomer, 3333 Linwood Ave., Louisville, KY 40211

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Marita Crane, 645 Louis Coleman Jr. Dr., Louisville, KY 40211
Donna McGaughy, 2500 Standard Ave., Louisville, KY 40210
Mary Buckman, 2804 Oregon Ave., Louisville, KY 40210
Briean Taylor, 645 Louis Coleman Jr. Dr., Louisville, KY 40211
Donna Richards, 9901 Roundstone Trace, Louisville, KY 40223
Jashawn Leavell, 3205 Northwestern Pkwy., Louisville, KY 40212
Naveah Crowe, 741 Loretto Ave., Louisville, KY 40211
Joshua Toomer, 3333 Linwood Ave., Louisville, KY 40211
Martha Jones, 10040 Wind Hill Dr., Greenville, IN 47124
Walter Smith, 645 Southwestern Pkwy., Louisville, KY 40211

Summary of testimony of those in favor:

02:35:37 Nick Pregliasco spoke in favor of the request and showed a Powerpoint presentation. Mr. Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

02:49:25 Pat Durham, representing the Building Industry Association of Greater Louisville, spoke in favor of the request (see recording for detailed presentation).

02:52:17 Rose Smith spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:57:47 Gregory Crowe spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

03:02:38 Shay McAlister spoke in favor of the request (see recording for detailed presentation).

03:05:10 Ryan Band spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

03:07:57 Crystal Thornton spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

03:09:58 Elesha Toomer spoke in favor of the request (see recording for detailed presentation).

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03:11:20 Marita Crane spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

03:12:57 Donna McGaughy spoke in favor of the request (see recording for detailed presentation).

03:13:53 Mary Buckman spoke in favor of the request (see recording for detailed presentation).

03:15:04 Brien Taylor spoke in favor of the request (see recording for detailed presentation).

03:16:37 Donna Richards spoke in favor of the request (see recording for detailed presentation).

03:18:42 Jashawn Leavell spoke in favor of the request (see recording for detailed presentation).

03:19:52 Naveah Crowe spoke in favor of the request (see recording for detailed presentation).

03:21:41 Joshua Toomer spoke in favor of the request (see recording for detailed presentation).

03:23:47 Martha Jones spoke in favor of the request (see recording for detailed presentation).

03:26:33 Walter Smith spoke in favor of the request (see recording for detailed presentation).

03:29:33 Meeting was recessed.

03:30:04 Meeting was reconvened.

The following spoke in opposition of the request:
Councilwoman Mary Woolridge, 601 W. Jefferson St., Louisville, KY 40202
Betty Garrison, 2515 Standard Ave., Louisville, KY 40210
Sandra Morris, 2509 Standard Ave., Louisville, KY 40210
Sandra Vaovasa, 2527 Standard Ave., Louisville, KY 40210
Anetonia Vaovasa, 2527 Standard Ave., Louisville, KY 40210

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Charles Whitfield, 2503 Standard Ave., Louisville, KY 40210

Summary of testimony of those in opposition:

03:31:20 Councilwoman Mary Woolridge spoke in opposition of the request. Councilwoman Woolridge stated she is adamantly opposed to this facility being in a residential neighborhood. Councilwoman Woolridge stated only one person who spoke in favor actually lives on this street, and the point she is trying to make is that this happens so often in West Louisville – people don't live in their area or their neighborhoods but then they want to bring projects into their neighborhood. Councilwoman Woolridge stated the people that have been living there for years deserve to be able to live in their homes in peace, quiet and comfort. Councilwoman Woolridge stated there is vacant property all over the city of Louisville, and a lot of this property is in commercial areas, and she hopes the Board will take that into consideration when they rule on this. Councilwoman Woolridge responded to questions from the Board Members (see recording for detailed presentation).

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

03:51:37 Sandra Morris spoke in opposition of the request (see recording for detailed presentation).

03:53:04 Sandra Vaovasa spoke in opposition of the request (see recording for detailed presentation).

03:57:11 Anetonia Vaovasa spoke in opposition of the request (see recording for detailed presentation).

04:03:46 Charles Whitfield spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

04:17:33 Nick Pregliasco spoke in rebuttal (see recording for detailed presentation).

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04:27:46 Board Members' deliberation

04:45:59 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, was adopted:

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 located in an existing structure and there is no proposed new construction. When appropriately managed, the proposed use is compatible with surrounding development and land uses, 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. MSD and Transportation Planning have reviewed and approved the proposal, and

WHEREAS, the Board further finds that:

4.2.54. Community Service Facility may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, UN, R-5A, R-5B, R-6, R-7, R-8A, M-1, M-2, M-3, W-1, W-2, W-3, TNZD (Neighborhood General) districts upon the granting of a conditional use permit and compliance with the listed requirements.

A. General Standards – All Zoning Districts

1. Parking spaces shall be determined by the board of zoning based on the number of employees and the potential number of visitors to the site as described by the applicant in a parking study of similar uses. **Based on the street frontage of the property; the site can be credited for up to six on-street parking spaces adjacent to the property. Based on the nature of the use this appears to be sufficient parking for the site.**
2. Signage for community service facility shall be in accordance with chapter 8 of the LDC for nonresidential uses. **No signage is proposed at this time.**
3. All applicable land development code requirements including but not limited to floor area ratio, building setback, landscape buffers and building heights shall

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be maintained. *Since there is no new construction proposed the site appears to be in compliance with applicable provisions of the LDC.*

4. Conversion of Existing Structures: A report from the applicable fire official shall be provided to the Board outlining the necessary steps for compliance with fire code safety standards prior to establishing occupancy of the structure for the proposed use. *The applicant is working with the fire official and has proposed a condition of approval that the Fire Department approve the improvements to the structure prior to obtaining a certificate of occupancy;* now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1133 does hereby **APPROVE** Conditional Use Permit to allow a community service facility in an R-6 Zoning District and Traditional Neighborhood Form District, **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 community service facility without further review and approval by the Board.
3. The applicant shall receive Louisville Fire Department approval for the improvements to the structure prior to obtaining a certificate of occupancy.
4. The hours of operation shall be 9:00 a.m. to 9:00 p.m., notwithstanding that no child shall be forced to leave the premises without an accompanying adult.

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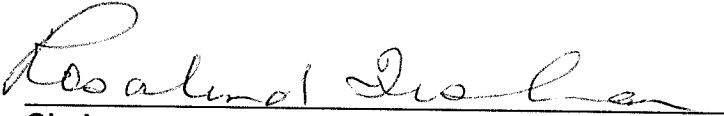
The vote was as follows:

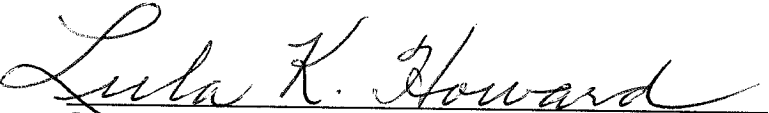
Yes: Members Turner, Howard, Leanhart, Vice Chair Young, and Chair Fishman

Absent: Member Buttorff

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The meeting adjourned at approximately 6:32 p.m.


Chair


Secretary