

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT  
WITH THE ANNUAL ELECTION OF OFFICERS**

**JULY 6, 2015**

A meeting of the Louisville Metro Board of Zoning Adjustment was held at 8:30.A.M. on Monday, July 6, 2015, 514 West Liberty Street, Old Jail Building, Old Jail Court Room, Louisville, Kentucky.

**Members present:**

David Proffitt, Chairperson  
\*Mike Allendorf, Vice Chairperson  
Rosalind Fishman, Secretary  
Betty Jarboe  
Dean Tharp  
Paul Bergmann

**Members absent:**

Lester Turner

**Staff members present:**

Emily Liu, Director, Planning & Design Services  
Jonathan Baker, Legal Counsel  
Joe Reverman, Planning Manager  
Eugene Sowell, Planning Information Specialist  
Steve Lutz, Planning Supervisor  
Steve Hendrix, Planning Supervisor  
Sherie Long, Landscape Architect  
Jon Crumble, Planner II  
Beth Stevenson, Management Assistant

\*Member Allendorf left the meeting at approximately 1:30 p.m.

The following cases were heard:

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

**JULY 6, 2015**

**APPROVAL OF MINUTES**

**JUNE 15, 2015 BOARD OF ZONING ADJUSTMENT MINUTES**

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

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on June 15, 2015.

**YES: Members Allendorf, Fishman and Bergmann.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Turner.**

**ABSTAINING: Members Proffitt, Jarboe and Tharp.**

**MINUTES OF THE MEETING  
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**JULY 6, 2015**

**ANNUAL MEETING FOR ELECTION OF OFFICERS**

**ELECTION—CHAIRPERSON**

Member Fishman made a motion to nominate Member David Proffitt as Chairperson of the Louisville Metro Board of Zoning Adjustment, and was seconded by Member Bergmann.

There being no more motions, the nominations were closed and the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPOINT** David Proffitt as Chairperson.

**YES: Members Allendorf, Fishman, Tharp, Jarboe and Bergmann.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Turner.**

**ABSTAINING: Member Proffitt.**

**ELECTION—VICE CHAIRPERSON**

Member Fishman made a motion to nominate Member Michael Allendorf as Vice Chairperson of the Louisville Metro Board of Zoning Adjustment and was seconded by Member Jarboe.

There being no more motions, the nominations were closed and the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPOINT** Michael Allendorf as Vice Chairperson.

**YES: Members Proffitt, Fishman, Tharp, Jarboe and Bergmann.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Turner.**

**ABSTAINING: Member Allendorf.**

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**ANNUAL MEETING FOR ELECTION OF OFFICERS**

**ELECTION—SECRETARY**

Member Jarboe made a motion to nominate Member Rosalind Fishman as Secretary of the Louisville Metro Board of Zoning Adjustment and was seconded by Member Tharp.

There being no more motions, the nominations were closed and the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPOINT** Rosalind Fishman as Secretary.

**YES: Members Proffitt, Allendorf, Tharp, Jarboe and Bergmann.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Turner.**

**ABSTAINING: Member Fishman.**

**MINUTES OF THE MEETING  
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**JULY 6, 2015**

**BUSINESS SESSION:**

**CASE NO. 15VARIANCE1031**

**Request:** Variance from the Land Development Code to allow a proposed addition to encroach into the required side yard. **The Board continued this case from June 15, 2015, to review revised elevations.**

**Project Name:** Thornton's

**Location:** 8400 Dixie Highway

**Owner:** Thornton's Inc.  
Jode Ballard, Agent  
10101 Linn Station Road  
Louisville, KY 40223

**Applicant:** Same as Owner

**Representative:** American Engineers  
Joe Watson  
65 Aberdeen Drive  
Glasgow, KY 42141

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 14—Cindi Fowler**  
**Staff Case Manager: Jon Crumie Planner II**

**(CONTINUED FROM JUNE 15, 2015 – REVISED ELEVATIONS)**

The revised elevations for this case were incorporated into the record. The Board members received this information in advance of the hearing, and was available to any interested party prior to the public hearing. (The case file is maintained at the Planning and Design Services offices located at 444 S. 5<sup>th</sup> Street).

**Agency Testimony:**

Staff Case Manager, Jon Crumie, submitted the staff approved revised renderings for the Board to review. The Board had no objections.

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**JULY 6, 2015**

**BUSINESS SESSION:**

**CASE NO. 15VARIANCE1031**

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the July 6, 2015 public hearing proceedings.**

After the public hearing in open business session, on a motion by Member Allendorf, seconded by Member Fishman, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the revised renderings the Board reviewed at today's hearing incorporating more animating features on two sides of the building.

**YES: Members Allendorf, Fishman, Tharp, Jarboe, Proffitt and Bergmann.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Turner.**

**ABSTAINING: No one.**

**MINUTES OF THE MEETING  
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**JULY 6, 2015**

**BUSINESS SESSION:**

**CASE NO. 15VARIANCE1019**

**Request:** Variance and waivers from the Land Development Code to allow a proposed building and menu board to encroach into the required street side yard; and to allow an enclosed dumpster to encroach into the required side yard; and a Category 2B Review. **The Board continued this case to allow the applicant time to revise the plan resolving the 24 technical review items listed in the staff report; and to possibly add a fence or other buffering along the east property line to detour people from crossing the railroad tracks.**

**Project Name:** Taco Bell

**Location:** 1805 South Brook Street

**Owner:** Louisville & Jefferson County Metro Government  
Cathy Duncan  
527 W. Jefferson Street  
Louisville, KY 40202

**Applicant:** Redbird Acquisitions, LLC  
c/o Miller & Wells, PLLC  
710 W. Main Street, 4<sup>th</sup> Floor  
Louisville, KY 40202

**Representative:** WD Partners  
Yumma Siddiqi  
19100 Von Karman Avenue, #600  
Irvine, CA 92612

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 6—David James**

**Staff Case Manager: Sherie' Long, Landscape Architect**

**MINUTES OF THE MEETING  
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**JULY 6, 2015**

**BUSINESS SESSION:**

**CASE NO. 15VARIANCE1019**

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

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

**Agency Testimony:**

Staff Case Manager, Sherie' Long, presented a PowerPoint presentation to the Board recapping the previous hearing. She said the applicant submitted a revised site plan resolving most of the 24 technical issues and said that a fence already exists along the east property line near the railroad tracks. Ms. Long said the applicant also submitted a landscape plan adding 5 more trees to the overall site; and perimeter buffering along the drive-thru. Also included is another mural along one of the blank sides of the building.

**The following spoke in favor of this request:**

Adam Macke, GPD Group, 520 South Main Street, Ste. 2531, Akron, OH 44615

**Summary of testimony of those in favor:**

Adam Macke said they will be repairing the existing chain link fence by the railroad tracks and clean the area up. He said they will be adding another mural on one of the blank sides of the building for animating features, but will place it up higher for safety reasons due to the drive-thru.

**The following spoke neither for nor against the request:**

No one.

**Summary of testimony of those who spoke neither for nor against:**

No one.

**The following spoke in opposition to this request:**

No one.



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**JULY 6, 2015**

**BUSINESS SESSION:**

**CASE NO. 15VARIANCE1019**

**Summary of testimony of those in opposition:**

No one.

**Deliberation:**

Board of Zoning Adjustment deliberation.

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the July 6, 2015 public hearing proceedings.**

After the public hearing in open business session, on a motion by Member Allendorf, seconded by Member Bergmann, the following resolution was adopted:

**WHEREAS**, the Board finds from the file of this case, that the applicant has submitted a revised Category 2B Plan and Landscape Plan that resolves the technical review items listed in the staff report dated June 15, 2015; and because the applicant will be repairing the fence which separates the development site from the adjacent railroad right-of-way to the east and clear the weeds and trash; and because the applicant has provided a mural along the South Brook Street façade to meet the 60% animation requirement, all at the Board's request from the June 15, 2015 public hearing;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the requested Category 2B Plan, variance and waivers.

**YES: Members Allendorf, Fishman, Tharp, Jarboe, Proffitt and Bergmann.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Turner.**

**ABSTAINING: No one.**

**MINUTES OF THE MEETING  
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**JULY 6, 2015**

**NEW BUSINESS:**

**CASE NO. 15APPEAL1005**

**Request:** Appeal of an administrative official action that issued a permit for construction of a 3-unit residential building.

**Project Name:** Rosewood Condominiums

**Location:** 1505 Rosewood Avenue

**Appellant:** Daniel & Elizabeth Fauxpoint  
1505 Rosewood Avenue, #7  
Louisville, KY 40204

**Owner(s):** Rosewood Condominium Council

**Appellant's Attorney:** Bill Seiler, Esq.  
462 S. 4<sup>th</sup> Street  
Louisville, KY 40202

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 8—Tom Owen**

**Staff Case Manager: Joe Reverman, AICP, Planning Manager**

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and 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 located at 444 S. 5<sup>th</sup> Street).

The permits were issued on May 4, 2015.

The appellant filed the appeal on May 11, 2015.

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**JULY 6, 2015**

**NEW BUSINESS:**

**CASE NO. 15APPEAL1005**

On June 1, 2015, this case was continued by the Board.

On July 6, 2015, at a meeting of the Board, a hearing was held on the case. A drawing showing the premises affected and the existing and/or proposed construction was presented to each Board member.

**Agency Testimony:**

Joe Reverman, the case manager, went over the additional information that was requested by the Board at the original hearing on June 1, 2015; and presented a PowerPoint presentation. (See staff report dated July 6, 2015). The Board asked numerous questions concerning the permits and retention of permits by the permitting department; why the permits were issued separately at different times (piecemeal); total number of proposed units (11 or 12); and if the city arborist was able to look at the existing magnolia tree's root system. Mr. Reverman explained how the permits were justified considering the Land Development Code regulations and Form District guidelines at that time.

**The following spoke in opposition to this request:**

Gene Crawford, Highlands Restoration Group, LLC (HRG), 11915 Creel Lodge Drive, Louisville, KY 40223.

**Summary of testimony of those in opposition**

Gene Crawford, the developer, said he has building rights for 3 additional units per the Master Deed. He said he sold the carriage house and incorporated it into the condominium regime.

**The following spoke neither for nor against the request:**

No one.

**Summary of testimony of those who spoke neither for nor against:**

No one.

**The following spoke in favor of the request:**

Bill Seiler, the appellant's attorney.

Dan Fauxpoint, the appellant, who presented a PowerPoint presentation.

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**JULY 6, 2015**

**NEW BUSINESS:**

**CASE NO. 15APPEAL1005**

Jon Salomon, Attorney for the Rosewood Condominium Council, 3600 National City Tower, 101 S. 5<sup>th</sup> Street, Louisville, KY 40202  
Morris Shaw, 1506 Goddard Avenue, Louisville, KY 40204.

Dr. Robert Mann, 1505 Rosewood Avenue, Louisville, KY 40204.

**Summary of testimony of those in favor:**

Bill Seiler, the appellant's attorney, said the system failed with regard to this case and a Category 3 Review should have been triggered. He said the permits were issued in a piece meal fashion, so the developer didn't have to go through the Category 3 Review process.

Dan Fauxpoint, the appellant, presented a PowerPoint presentation to the Board highlighting all the key issues of this proposal being out of compliance with the Land Development Code and Cornerstone 2020.

Jon Salomon, Attorney for the Rosewood Condominium Council, said that Mr. Fauxpoint explained several reasons to overturn the issuance of the permits and approve this appeal. He said per the Master Deed, Highlands Restoration Group, LLC (HRG) is not the owner of this property anymore and doesn't have legal rights to file applications with the city as the owner. He said Mr. Crawford had 7 years to build the additional condominium units, but has since expired.

Morris Shaw said he doesn't see why anyone would want to buy anything on the third floor without a fire escape or designated parking. He said he disagrees with staff's recommendation due to the way the Floor Area Ratio (FAR) was calculated. Mr. Shaw said it was Mr. Crawford with HRG, who started the condominium association, and that he needs to comply with the association rules and city regulations.

Dr. Robert Mann said neither one of the added sunroom porches are porches any longer, but an enclosed dining room and office. He said these were built without permits.

Jon Salomon said Mr. Fauxpoint discussed a number of violations and undocumented construction and why these permits should have never been issued to begin with.

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**NEW BUSINESS:**

**CASE NO. 15APPEAL1005**

**Rebuttal Mr. Crawford:**

Mr. Crawford said there have been no violations or evidence of violations as David Marchal, Construction Review Manager, testified to at the last hearing. He said he would not have received a Certificate of Occupancy if he didn't have permits. Mr. Crawford said he is still paying taxes on the remaining open space of the property, which allows him to sign applications as the owner. He said the condominium owners agreed to the FAR and is what their fees are based on. He said he asked the condo association if they wanted to buy the land to keep the greenspace, but never heard from them. He said he later forwarded the plans to the association, and once again, never heard from them. Mr. Crawford said the landscape plans have been approved and that this development will not kill any trees. He said he relied on Planning & Design staff to get him through the process.

**Rebuttal Mr. Seiler and Mr. Salomon:**

Mr. Seiler said the 14,947 square feet has nothing to do with the FAR calculations.

Mr. Salomon said there is no relevance to Mr. Crawford being the owner since he is paying property taxes, and said he should have updated the records at PVA.

**Deliberation:**

The Board discussed how the FAR was calculated again for the existing sunrooms and this proposal. Some of the Board members felt a Category 3 Review should have done considering the number of proposed units. The Board also discussed ownership rights based on the Master Deed.

**Back into public hearing:**

Mr. Salomon said he felt the permits were issued in good faith, but that the agency erred. Mr. Reverman said that typically building footprints are submitted to the permitting agency for review where measuring from exterior wall to exterior wall was consistently used for determining FAR.

**Back into public hearing:**

Chair Proffitt said he thinks the FAR was calculated in a consistent manner by the permitting department. He said there are several items in the original staff report the Board could use to identify findings of fact.

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**JULY 6, 2015**

**NEW BUSINESS:**

**CASE NO. 15APPEAL1005**

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning and Design Services offices. Please contact Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the July 6, 2015 public hearing proceedings.**

Member Bergmann made a couple of motions to approve the appeal but then withdrew his motions.

On a motion by Member Bergmann, seconded by Member Tharp the following resolution was adopted:

**WHEREAS**, the Board finds from the file of this case, the staff report, the PowerPoint presentations; the evidence, testimony and discussion at the public hearings that this case is an appeal of an administrative official action that issued a permit for the construction of a 3-unit residential building on property known as 1505 Rosewood Avenue; and

**WHEREAS**, the Board finds that per the Master Deed, Highlands Restoration Group, LLC is not the owner of the subject property but the owners of the condominiums are; and because a 3-unit building is proposed which would total 12 units for the property and should have triggered a Category 3 Review; and

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Appeal for Case No. 15APPEAL1005 to require the following actions to be taken:

1. The proposed structure shall be required to go through the Category 3 Review Process, and
2. Staff of Planning & Design Services and Construction Plan Review shall calculate the Floor Area Ratio from exterior of exterior walls, and
3. Highlands Restoration Group, LLC (HRG) shall be required to get a signature from the Rosewood Condominium Council for all Planning and Permitting applications.

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**NEW BUSINESS:**

**CASE NO. 15APPEAL1005**

**YES: Members Tharp, Jarboe, Proffitt and Bergmann.**

**NO: Member Fishman.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Turner  
and Allendorf.**

**ABSTAINING: No one.**

**MINUTES OF THE MEETING  
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**JULY 6, 2015**

**NEW BUSINESS:**

**CASE NO. 15VARIANCE1032**

**Request:** Variance from the Land Development Code to allow an existing addition to encroach into the required side yard.

**Project Name:** Existing Addition

**Location:** 1036 Mulberry Street

**Owner:** Doug S. Olsen, DSO Holdings, LLC

**Applicant:** Marcos Mendoza, Buena Vista Group, LLC

**Representative:** G. Hunt Rounsavall, Jr., Rounsavall Law Offices, LLC

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 10—Steve Magre**

**Staff Case Manager: Sherie' Long, Landscape Architect**

**(WITHDRAWN BY THE APPLICANT)**

Chair Proffitt asked if anyone was present for this. No one responded from the audience.



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**JULY 6, 2015**

**NEW BUSINESS:**

**CASE NO. 15VARIANCE1033**

**Request:** Variances from the Land Development Code to allow a proposed addition to encroach into the required side yard and fence to exceed the maximum height requirement.

**Location:** 4640 Bellevue Avenue

**Owner:** Baron Pieper  
4640 Bellevue Avenue  
Louisville, KY 40215

**Applicant:** Same as owner

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 21—Dan Johnson**  
**Staff Case Manager: Jon Crumbie, Planner II**

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

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

**Agency Testimony:**

Staff Case Manager, Jon Crumbie discussed the case summary, standard of review and staff analysis from the staff report. He said the variances are for the applicant to enlarge an existing deck and a fence to exceed the maximum height from 8 feet to 12 ft. tall. Chair Proffitt asked if the fence is 12 feet from the ground. Mr. Crumbie said yes.

**The following spoke in favor of this request:**  
Baron Pieper.

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**NEW BUSINESS:**

**CASE NO. 15VARIANCE1033**

**Summary of testimony of those in favor:**

Baron Pieper, the owner, said he did receive a Stop Work Order and then received a permit. He said the existing deck already encroached into the yard space. Chair Proffitt asked if there was any record of a variance received for the original deck. Mr. Crumbie said he didn't find anything. Member Tharp asked why there isn't a record of this. Emily Liu, Director of Planning & Design Services, said that the applicant probably did not apply for a variance, since Planning & Design doesn't destroy any records.

**The following spoke neither for nor against the request:**

No one.

**Summary of testimony of those who spoke neither for nor against:**

No one.

**The following spoke in opposition to this request:**

Barry Miller, 4638 Bellevue Avenue, Louisville, KY 40215.

**Summary of testimony of those in opposition:**

Barry Miller said he lives adjacent to the subject property; and didn't receive any notification for a variance for the original deck. He said he doesn't know how he can receive a permit for the extension of the deck when the original deck never had approval. Chair Proffitt asked what he is opposed to. Mr. Miller said the height of the fence and using up all the greenspace. He said Mr. Pieper already enlarged his pool and now making the deck bigger.

**Rebuttal/Questions from the Board:**

Member Jarboe asked if the 12 ft. tall fence is for privacy. Mr. Pieper said yes, because of the apartments next door. Member Fishman asked how tall the fence is along the Miller's property. Mr. Pieper said there is already a fence there, but he will be installing a guard rail

**Deliberation:**

Member Bergmann said no one in opposition is here from the apartment complex but they wouldn't be able to voice their opinion since they are not the owners. Member Jarboe said she would prefer plants instead of a fence. Member Fishman said he should have received a permit before building.

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**NEW BUSINESS:**

**CASE NO. 15VARIANCE1033**

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the July 6, 2015 public hearing proceedings.**

**Variances—To allow a proposed deck to encroach into the required side yard; and to allow a fence to exceed the maximum height:**

After the public hearing in open business session, on a motion by Member Allendorf, seconded by Member Fishman, the following resolution was adopted:

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting variances from the Land Development Code to allow a deck to encroach into the south side yard; and to allow a fence to exceed the maximum height; and

**WHEREAS**, the Board finds that the requested variances will not adversely affect the public health, safety or welfare because the proposed addition will be matching the current condition on site; and

**WHEREAS**, the Board finds that the variances will not alter the essential character of the general vicinity because the proposed addition and fence will be compatible with the existing structures and match the existing building alignment; and

**WHEREAS**, the Board finds that the variances will not cause a hazard or nuisance to the public because the proposed addition will not affect adjacent residential properties to the east; and

**WHEREAS**, the Board finds that the variances will not allow an unreasonable circumvention of the zoning regulations because there are similar encroachments of this type throughout the surrounding area; and

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**CASE NO. 15VARIANCE1033**

**WHEREAS**, the Board finds that the variances arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the site was developed before the current regulations; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the addition could not be built as shown and would need to be modified; and

**WHEREAS**, the Board 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 because the owner is trying to conform to the existing conditions on site;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variances.

**The variances allow:**

1. The deck to be 0 feet from the south property line.
2. The fence to be 12 feet in height.

**YES: Members Allendorf, Fishman, Tharp, Jarboe, Proffitt and Bergmann.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Turner.**

**ABSTAINING: No one.**

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**JULY 6, 2015**

**NEW BUSINESS:**

**CASE NO. 15CUP1008**

**Request:** Conditional Use Permit to allow transitional housing in an UN Zoning District.

**Project Name:** Sober Living Home

**Location:** 918 South Shelby Street

**Owner:** Burkhead's Home Specialist  
Jim Burkhead  
140 Cajun Court  
Louisville, KY 40229

**Applicant:** Burkhead's Home Specialist  
Sean Bowman  
392 Dale Road  
Louisville, KY 40229

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 4—David Tandy**

**Staff Case Manager: Jon Crumby, Planner II**

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

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

**Agency Testimony:**

Staff case manager, Jon Crumby discussed the case summary, standard of review and staff analysis from the staff report. He said the owner is renovating the house for transitional housing for 18 males who have completed a rehabilitation program from the state, county or personal admission. He said he

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**NEW BUSINESS:**

**CASE NO. 15CUP1008**

received letters from people who had concerns with the professional aspect for the renters; and profiting from the use. Mr. Crumbie said the applicant will need to comply with the requests from the Louisville Fire Department. The applicant is also asking to modify items 1 and 3 of the Conditional Use Standards (setback and signage).

**The following spoke in favor of this request:**

Jim Burkhead.

**Summary of testimony of those in favor:**

Jim Burkhead, the owner, said there are other transitional housing uses in the area that are not legal. He said there will be a house manager during the day and someone from Our Lady of Peace in the evening. He said he is remodeling the house to have multiple rooms with bunk beds; 3 full bathrooms; and 3 full kitchens. He said the residents will have to pay a weekly fee to live there and supply their own food. Member Fishman said fire alarms need to be provided. Mr. Burkhead said they will be provided and said it will be a nice environment for the residents to live.

**The following spoke neither for nor against the request:**

No one.

**Summary of testimony of those who spoke neither for nor against:**

No one.

**The following spoke in opposition to this request:**

No one.

**Summary of testimony of those in opposition:**

No one.

**Deliberation:**

Member Allendorf asked Jon Baker, the Board's legal counsel, if there is an ordinance for transitional housing. Mr. Baker said there is one pending. Member Allendorf said they are changing the use, so the owner will have to comply with the current Land Development Code. Chair Proffitt said that inspections will be made by the fire marshal.

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

**JULY 6, 2015**

**NEW BUSINESS:**

**CASE NO. 15CUP1008**

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the July 6, 2015 public hearing proceedings.**

**Conditional Use Permit to allow transitional housing in a UN Zoning District:**

On a motion by Member Jarboe, seconded by Member Fishman, the following resolution was adopted:

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review, the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a Conditional Use Permit to allow transitional housing in a UN Zoning District; and

**WHEREAS**, the Board finds that the proposal will meet the Comprehensive Plan guidelines except landscaping, but will keep what is existing on the site; and because no additional lighting will be added except security lighting and a street light is near the front of the property; and

**WHEREAS**, the Board finds that the proposal is compatible with the general character of the surrounding neighborhoods in terms of height, scale, intensity, lighting and appearance; and because the existing structure is being renovated; and

**WHEREAS**, the Board finds that the necessary public facilities (both on and off site) will be provided such as transportation, sanitation, water, sewer, drainage, emergency services, education, etc. because Public Works and MSD have preliminarily approved the plan; and because the applicant will follow the directive from the Louisville Fire Department (staff report, page 8); and

**WHEREAS**, the Board finds that the proposal complies with 5 of the 6 listed requirements to obtain the conditional use permit, where Item 1 will be modified to allow the existing structure to be 2 feet from the south property line and 5 feet from the north property line;

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

**JULY 6, 2015**

**NEW BUSINESS:**

**CASE NO. 15CUP1008**

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow transitional housing in a UN Zoning District on the site **SUBJECT** to the following 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 transitional housing without further review and approval by the Board.

**YES: Members Allendorf, Fishman, Tharp, Jarboe, Proffitt and Bergmann.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Turner.**

**ABSTAINING: No one.**



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

**JULY 6, 2015**

**EXECUTIVE SESSION:**

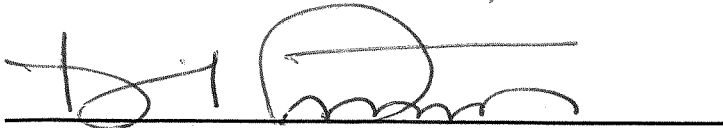
The Board went into executive session to discuss a pending litigation case.

The Board came out of executive session.

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

JULY 6, 2015

The meeting adjourned at 2:10 p.m.

A handwritten signature in black ink, consisting of several loops and a horizontal line, positioned above a solid horizontal line.

**CHAIRPERSON**

A handwritten signature in black ink, appearing to read 'Rosalind Fisher', positioned above a solid horizontal line.

**SECRETARY**