

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

July 30, 2018

A meeting of the Louisville Metro Board of Zoning Adjustment was held on July 30, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Mike Allendorf, Chair
Rosalind Fishman, Vice Chair
Lula Howard, Secretary
Dwight Young
Richard Buttorff
Lester Turner, Jr.

Members Absent:

Kimberly Leanhart

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Reverman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Steve Hendrix, Planning & Design Coordinator
Jon Crumbie, Planning & Design Coordinator
Beth Jones, Planner II
Jay Lockett, Planner I
Ross Allen, Planner I
Dante St. Germain, Planner I
John Carroll, Legal Counsel
Travis Fiechter, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

**BOARD OF ZONING ADJUSTMENT MINUTES
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APPROVAL OF MINUTES

July 16, 2018 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:02:32 On a motion by Member Turner, seconded by Member Young, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on July 16, 2018.

The vote was as follows:

Yes: Members Young, Buttorff, Turner, and Chair Allendorf

Abstain: Member Howard

Absent: Member Leanhart, and Vice Chair Fishman

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BUSINESS SESSION

CASE NUMBER 18CUP1040

Request: Modification of an approved Conditional Use Permit to allow a hydrogen fuel tank relocation in a PEC zoning district

Project Name: Kroger hydrogen fuel tank farm

Location: 2000 Nelson Miller Parkway

Owner/Applicant: The Kroger Company

Representative: Morgan Hawker

Jurisdiction: Louisville Metro

Council District: 19 – Julie Denton

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:

00:03:24 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).

The following spoke in favor of the request:

Morgan Hawker, 737 S. 3rd Street, Louisville, KY 40202

Summary of testimony of those in favor:

00:06:26 Morgan Hawker 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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CASE NUMBER 18CUP1040

00:08:19 Board Members' deliberation

00:08:28 On a motion by Member Howard, seconded by Member Young, the following resolution, based upon the Standard of Review and Staff Analysis, the staff's presentation, and the applicant's presentation, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal meets all applicable policies of the Comprehensive Plan. Lighting will not be added, and

WHEREAS, the Board further finds that the subject site is located in a commercial area that has a mix of commercial uses and is a focal point for several surrounding neighborhoods. All the commercial uses in the area have similar, scale, intensity, traffic, noise, and lighting, and

WHEREAS, the Board further finds that the proposal has been reviewed by Public Works and MSD and both have approved the plan. The Middletown Fire Protection District requested the updated equipment, and

WHEREAS, the Board further finds that:

The following uses (manufacture, processing, treatment, or storage unless otherwise specified), having accompanying hazards such as fire, explosion, noise, vibration, dust, or the emission of smoke, odor, or toxic gases may, if not in conflict with other laws or ordinances, be located in industrial zones as indicated below by Conditional Use Permit after the location and nature of such use shall have been approved by the Board of Zoning Adjustment. In reviewing an application for a CUP, the Board of Zoning Adjustment shall review the plan and statements of the applicant and the following:

- A. The Comprehensive Plan;
- B. Environmental and health related concerns raised by the operation and the applicant's proposal to mitigate any adverse effects to the public's health, safety and general welfare;
- C. The applicant's site design, buffering, and security measures and their adequacy to mitigate any adverse effects to the public's health, safety and general welfare;

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D. Any other evidence submitted by the applicant and any other party addressing the issues.

A Conditional Use Permit under this section shall be issued only if the evidence shows the applicant's operation and associated nuisances will be properly managed and the public's health, safety and general welfare will be protected. The Board of Zoning Adjustment may impose additional conditions to protect surrounding properties. All Conditional Use Permits under this section shall be issued subject to the applicant also receiving all necessary permits from local, state and federal regulatory agencies; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1040 does hereby **APPROVE** Modified Conditional Use Permit to allow the relocation of hydrogen fuel tanks, **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 nuisance use (hydrogen fuel cell tank) without further review and approval by the Board.

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Howard, and Chair Allendorf

Absent: Member Leanhart, and Vice Chair Fishman

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1056

Request: Variance from LDC 5.4.1.D.2 to reduce the Private
Yard Area to less than 30%.
Project Name: Everett Avenue Variance
Location: 1287 Everett Avenue
Owner/Applicant: McCauley Adams
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
Case Manager: Ross Allen – 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:

00:10:04 Ross Allen presented the case and showed a Powerpoint presentation. Mr. Allen responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

McCauley Adams, 1287 Everett Ave., Louisville, KY 40204

Summary of testimony of those in favor:

00:14:14 McCauley Adams 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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PUBLIC HEARING

CASE NUMBER 18VARIANCE1056

00:16:37 Board Members' deliberation

00:16:58 On a motion by Member Young, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, the applicant's variance justification, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the applicant states that "the porch will not be seen from the front or affect our neighbors in a negative way." Photos as provided by the owner/applicant indicate that the private yard area is enclosed from the alley by a wood fence. The proposed rear porch may be visible from the Alley and is estimated to be approximately 14 ft. tall (18COA1139) with no visibility from the Everett Ave. road frontage. The proposed rear porch will replace an existing open air deck on the rear of the home, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the applicant states, "we are working with landmarks on architectural design." The applicant has submitted a Certificate of Appropriateness (COA) under case no 18COA1139. The COA was staff approved on July 13, 2018, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the owner/applicant has stated "it is in a secure and fenced in yard." Additionally, staff finds that the proposed porch is not within any setbacks in the Traditional Neighborhood Form district, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations in because the applicant states, "The location of the house to the street/alley creates a small backyard." The overall reduction in the private yard area is approximately 9% with a distance between the principal structure and garage being 41 ft. in length with a width of approximately 40.25 ft. for a total remaining private yard area of approximately 1,645 sq. ft., and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the applicant states, "we have a small backyard and a large front yard." The property has a front yard of approximately 1,403 sq. ft. in size while the rear yard as indicated on the site plan prior to the

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proposed enclosed rear porch would have been approximately 2,293 sq. ft. being slightly under the required 30% private yard area requirement, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant since the applicant states, “we are trying to create a more private back yard in an urban area.” The owner/applicant is decreasing the private yard area by approximately 9% or 723 sq. ft. A denial of the request would result in an existing deck to be in place of the proposed screened in porch, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as stated by the owner/applicant, “no, no construction has occurred.” Additionally, the subject site is located within Cherokee Triangle and will be required to receive staff approval of the proposed rear enclosed porch via a Certificate of Appropriateness, 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 18VARIANCE1056 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.2 to allow a proposed 370 sq. ft. rear screened porch to reduce the private yard area to less than 30% for a lot greater than 6,000 sq. ft. **(Requirement 30% [2,368 sq. ft.], Request 21% [≈1,645 sq. ft.], Variance 9% [≈723 sq. ft.]).**

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 18DEVPLAN1105

Request:	Category 2B Plan with Waiver and Variance
Project Name:	Paragon Centre
Location:	6040 Dutchmans Lane
Owner:	Paragon Centre Holdings, LLC
Applicant:	Nicklies Development
Representative:	Heritage Engineering, Inc.
Jurisdiction:	Louisville Metro
Council District:	26 – Brent Ackerson
Case Manager:	Jay Lockett, 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:

00:18:33 Jay Lockett presented the case and showed a Powerpoint presentation. Mr. Lockett responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jim Calvery, 6060 Dutchmans Lane, Louisville, KY 40205

Summary of testimony of those in favor:

00:22:10 Jim Calvery 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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CASE NUMBER 18DEVPLAN1105

00:25:50 Board Members' deliberation

00:26:19 On a motion by Member Turner, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony of the applicant, and the applicant's justification, was adopted:

Variance from Land Development Code Section 5.3.3.C.2.a to exceed the 275-ft. maximum front yard setback by up to 135-ft.:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare because it is a minor addition to an existing site, and a similar variance request has already been approved, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the development already exists, and is similar to other office and commercial developments within the area, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the building will be buffered where it is adjacent to residential, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the proposal follows the existing development pattern of the site, and

WHEREAS, the Board further finds that the subject property is impacted by special circumstances such as the limited ability to provide a connection of the two existing buildings onsite while meeting the maximum setback requirements, and

WHEREAS, the Board further finds that strict application of the provisions would limit the ability to add the building addition and provide the office connection needed with existing corporate tenants, and

WHEREAS, the Board further finds that the proposed redevelopment of the property and need for the variance is not a result of actions taken by the applicant as the existing property was developed prior to the adoption of the Land Development Code that imposes limits on a larger portion of the property.

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These new requirements could have potentially been mitigated with an alternate design had the new code requirements existed at time of development; and

Waiver from Land Development Code Section 5.8.1 to not provide the sidewalk for Dutchmans Lane:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners because there are currently no sidewalks adjacent to the site, and no existing sidewalk networks on the South side of Dutchmans Lane, and

WHEREAS, the Board further finds that Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. The waiver is consistent with previous waivers granted to the site, and the development pattern of the area, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant, and

WHEREAS, the Board further finds that the strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land because the proposed addition is relatively small and the requirement of providing sidewalks along the frontage would not be proportional to the scale of the proposal; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18DEVPLAN1105 does hereby **APPROVE** Variance from Land Development Code Section 5.3.3.C.2.a to exceed the 275-ft. maximum front yard setback by up to 135-ft., and Waiver from Land Development Code Section 5.8.1 to not provide the sidewalk for Dutchmans Lane.

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The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 17DEVPLAN1123

Request: Variance for the setback and waivers for the design and landscaping to allow an auto repair shop expansion in a Traditional Neighborhood Form District

Project Name: Taylor Blvd. Expansion

Location: 4350 Taylor Blvd.

Owner: Jay Barker Auto Repair Service, Inc.

Applicant: Jay Barker

Jurisdiction: Louisville Metro

Council District: 15 – Marianne Butler

Case Manager: Steve Hendrix, Planning and Design Coordinator

NOTE: Vice Chair Fishman arrived at approximately 1:27 p.m.

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

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

Agency Testimony:

00:28:53 Steve Hendrix presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jay Barker, 4350 Taylor Blvd., Louisville, KY 40215

Summary of testimony of those in favor:

00:32:50 Jay Barker spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

00:35:42 Board Members' deliberation

00:36:28 On a motion by Vice Chair Fishman, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, the variance and waiver justification statements, and the testimony heard today, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17DEVPLAN1123 does hereby **APPROVE** Variance from Land Development Code Section 5.5.1.A.2.e.5 to allow the expansion to exceed the setback of 5 feet from the corner, Waiver #1 from Land Development Code Section 5.5.1.A.3.a not to allow the 3 foot screening along a portion of Walter Avenue and Taylor Boulevard, Waiver #2 from Land Development Code Section 5.5.1.A.3.a to allow parking in front of the existing and proposed buildings, and Waiver #3 from Land Development Code Section 5.5.1.A.3.b not to require connection to the alley.

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Vice Chair Fishman and Chair Allendorf

Yes/No: Member Howard (voted yes for Variance, Waiver #2, and Waiver #3, and no for Waiver #1)

Absent: Member Leanhart

NOTE: This motion was revoked to allow correction/clarification to the motion/vote (see Time Stamps 00:42:26, 00:43:23, 00:44:29, 00:45:22, and 00:46:11).

00:42:26 A motion was made by Vice Chair Fishman, seconded by Member Buttorff, in Case Number 17DEVPLAN1123 to **REVOKE** the original motion (**Time Stamp 00:36:28**) to allow for clarification of the motion/vote for each request.

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The vote was as follows:

Yes: Members Young, Buttorff, Turner, Vice Chair Fishman, and Chair Allendorf

Abstain: Member Howard

Absent: Member Leanhart

00:43:23 On a motion by Vice Chair Fishman, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, the variance justification statement, the presentation, and the testimony heard today, was adopted:

Variance from Land Development Code Section 5.5.1.A.2.e.5 to allow the expansion to exceed the setback of 5 feet from the corner:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare, but allows the expansion to line up with the existing building and its floor plan, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since most of the buildings along Taylor Boulevard are not located close to the property line, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the building addition does not create any type of sight distance concerns, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations, since the existing auto repair shop has been at this location since the 1970s, and

WHEREAS, the Board further finds that the requested variance arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the property is located on the corner within a Traditional Neighborhood Form District, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may create an unnecessary hardship on the applicant, since he would not be able to expand the business, and

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

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17DEVPLAN1123 does hereby **APPROVE** Variance from Land Development Code Section 5.5.1.A.2.e.5 to allow the expansion to exceed the setback of 5 feet from the corner.

The vote was as follows:

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

Absent: Member Leanhart

00:44:29 On a motion by Vice Chair Fishman, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, the presentation, and the applicant's justification, was adopted:

Waiver #1 from Land Development Code Section 5.5.1.A.3.a not to allow the 3 foot screening along a portion of Walter Avenue and Taylor Boulevard:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the waiver allows only the portion at the corner not to have the 3 foot screening requirement, and

WHEREAS, the Board further finds that the waiver will not violate specific guidelines of Cornerstone 2020, since the majority of the property will be landscaped, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant, since only the corner portion will not have landscaping, and

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WHEREAS, the Board further finds that the strict application of the provisions would create an unnecessary hardship on the applicant, since the pavement is already existing, 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 17DEVPLAN1123 does hereby **APPROVE** Waiver #1 from Land Development Code Section 5.5.1.A.3.a not to allow the 3 foot screening along a portion of Walter Avenue and Taylor Boulevard.

The vote was as follows:

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

No: Members Buttorff, and Howard

Absent: Member Leanhart

00:45:22 On a motion by Vice Chair Fishman, seconded by Member Young, the following resolution, based upon the Standard of Review and Staff Analysis, the presentation, and the waiver justification, was adopted:

Waiver #2 from Land Development Code Section 5.5.1.A.3.a to allow parking in front of the existing and proposed buildings:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the majority of the businesses along Taylor Boulevard having parking in front the buildings, and

WHEREAS, the Board further finds that the waiver will not violate specific guidelines of Cornerstone 2020, since the structure has been at this location since the 1960s and the proposal involves only an expansion, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant, since there is already parking in the front of the existing auto repair shop, and

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WHEREAS, the Board further finds that the strict application would deprive the applicant reasonable use of the land due to the existing location of the auto repair shop, 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 17DEVPLAN1123 does hereby **APPROVE** Waiver #2 from Land Development Code Section 5.5.1.A.3.a to allow parking in front of the existing and proposed buildings.

The vote was as follows:

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

Absent: Member Leanhart

00:46:11 On a motion by Vice Chair Fishman, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, the presentation, and the waiver justification, was adopted:

Waiver #3 from Land Development Code Section 5.5.1.A.3.b not to require connection to the alley:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since it does not appear that a connection has ever existed to the alley, and

WHEREAS, the Board further finds that the waiver will not violate specific guidelines of Cornerstone 2020, since the existing chain link fence and the proposed landscaping will provide a buffer from the commercial and residential uses, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant, since the fence is existing, and

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WHEREAS, the Board further finds that the strict application of the provisions would create an unnecessary hardship on the applicant, since the chain link that extends along the alley has existed for some time, 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 17DEVPLAN1123 does hereby **APPROVE** Waiver #3 from Land Development Code Section 5.5.1.A.3.b not to require connection to the alley.

The vote was as follows:

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

Absent: Member Leanhart

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1055

Request: Variance to allow a fence in the street side yard to exceed 42 inches in height
Project Name: S 3rd Street Fence
Location: 4575 S 3rd Street
Owner/Applicant: John Blanford
Jurisdiction: Louisville Metro
Council District: 21 – Vitalis Lanshima
Case Manager: Dante St. Germain, 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:

00:48:07 Dante St. Germain presented the case and showed a Powerpoint presentation. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

John Blanford, 4575 S. 3rd Street, Louisville, KY 40214

Summary of testimony of those in favor:

00:52:46 John Blanford 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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CASE NUMBER 18VARIANCE1055

00:55:13 Board Members' deliberation

00:55:43 On a motion by Vice Chair Fishman, seconded by Member Howard, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony heard today, and the variance justification statement, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the proposed fence will not extend to the corner and will not adversely affect vehicular or pedestrian traffic, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposed fence will not be readily visible to S 3rd Street, and

WHEREAS, the Board further find s that the requested variance will not cause a hazard or nuisance to the public as the proposed fence will not obstruct sight lines or create a hazard at the corner, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as there are buildings with greater scale and mass than the proposed fence nearby, with the result that the fence will not be out of place, and

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

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by requiring the applicant to lower the height of a standard fence to 42 inches, and

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

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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 18VARIANCE1055 does hereby **APPROVE** Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence in the street side yard setback to exceed 42 inches in height in the Traditional Neighborhood form district **(Requirement 3.5 ft., Request 6 ft., Variance 2.5 ft.)**.

The vote was as follows:

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

Absent: Member Leanhart

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CASE NUMBER 18VARIANCE1058

Request: Modified Variance to allow relief from conditions of approval
Project Name: Big Bar Variance Modification
Location: 1202 Bardstown Road
Owner: Chris Cook Holdings LLC
Applicant: Kevin Bryan
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
Case Manager: Dante St. Germain, 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:

00:57:39 Dante St. Germain presented the case and showed a Powerpoint presentation. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Kevin Bryan, 1202 Bardstown Road, Louisville, KY 40204

Summary of testimony of those in favor:

01:05:33 Kevin Bryan 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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01:08:26 Board Members' deliberation

01:09:15 On a motion by Vice Chair Fishman, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, the presentation, and the variance justification statement, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance modification will not adversely affect the public health, safety or welfare as the requested relief is needed due to changes to the proposed site plan, such that the construction which required the conditions of approval is no longer proposed to occur, and

WHEREAS, the Board further finds that the requested variance modification will not alter the essential character of the general vicinity as the changes to the plan have received Bardstown Road/Baxter Avenue Corridor Review Overlay District approval, and

WHEREAS, the Board further finds that the requested variance modification will not cause a hazard or nuisance to the public as the changed plan will be constructed to comply with all building codes, and

WHEREAS, the Board further finds that the requested variance modification will not allow an unreasonable circumvention of the zoning regulations as the plan has been changed such that the existing conditions of approval are not possible to fulfill, and

WHEREAS, the Board further finds that the requested variance modification arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the original plan can no longer be followed, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by requiring the applicant to construct doors and stairs without an easement on the property affected, which would not be possible for the applicant to do, 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

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from which relief is sought as the applicant is requesting the variance modification and has not begun construction, and

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1058 does hereby **APPROVE** Modification of a Variance to allow relief from Conditions of Approval related to construction which is no longer proposed.

The vote was as follows:

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

Absent: Member Leanhart

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PUBLIC HEARING

CASE NUMBER 17CUP1097

Request:	Conditional Use Permit to allow short term rental of a property in the Traditional Neighborhood Zoning District
Project Name:	Garvin Place Short Term Rental
Location:	1210 Garvin Place
Owner:	Rahel Samuel & Christopher Bosson
Applicant:	Christopher Bosson
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Dante St. Germain, 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:

01:11:23 Dante St. Germain presented the case and showed a Powerpoint presentation. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Justin Reed, 1372 S. 6th Street, Louisville, KY 40208

Summary of testimony of those in favor:

01:15:23 Justin Reed spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

01:22:04 Board Members' deliberation

01:22:24 On a motion by Member Young, seconded by Member Buttorff, 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 any Comprehensive Plan policies, and

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

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

WHEREAS, the Board further finds that:

Short Term Rental of a dwelling unit that is not the primary residence of the host in a R-R, R-E, R-1, R2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 or R-8A district and Short Term Rental of any dwelling unit in a TNZD district may be allowed upon the granting of a Conditional Use Permit. In addition to any conditions of approval, a short term rental and its host shall meet the following requirements:

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **According to the applicant, the residence has four bedrooms, allowing twelve guests.**

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- D. The dwelling unit shall be a single-family residence or duplex or condominium. This provision shall not be waived or adjusted. **The property contains a single-family residence.**
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **There is on-street parking in front of the residence, with the property credited for one parking space. There is a parking pad in the rear of the property, but it cannot be reached without crossing other private properties, and no easement is in place.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1097 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit in the Traditional Neighborhood Zoning District, **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

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

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

The vote was as follows:

Yes: Members Young, Buttorff, Howard, and Chair Allendorf

No: Member Turner, and Vice Chair Fishman

Absent: Member Leanhart

01:27:16 Meeting was recessed.

01:27:35 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 18CUP1031

Request: Conditional Use Permit, Category 3 review, variance, and waiver to allow independent living facility in an R-3 and R-4 zoning district
Project Name: Dominion Northfield Independent Living
Location: 6000 Hunting Road
Owner/Applicant: Dominion Louisville, LLC
Representative: Nicholas Pregliasco
Jurisdiction: Louisville Metro
Council District: 16 – Scott Reed
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:

01:28:04 Jon Crumbie presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223
Erin Hosking, 14205 Markleham Way, Louisville, KY 40245

Summary of testimony of those in favor:

01:31:58 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).

01:59:01 Erin Hosking spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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02:05:10 Nick Pregliasco spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke neither for nor against the request:

Paul Ogdon, 2103 Glenview Avenue, Louisville, KY 40222

Summary of testimony of those neither for nor against:

02:08:01 Paul Ogdon spoke neither for nor against the request. Mr. Ogdon stated his main concern was traffic issues. Mr. Ogdon responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

Christopher Bethards, 2010 Northfield Drive, Louisville, KY 40222

George Wheeler, 2006 Northfield Drive, Louisville, KY 40222

Michael Riley, 6008 Hunting Road, Louisville, KY 40222

Julie Kottak, 2008 Northfield Drive, Louisville, KY 40222

Summary of testimony of those in opposition:

02:11:55 Christopher Bethards spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:28:42 George Wheeler was called, but declined to speak (see recording for detailed presentation).

02:29:05 Michael Riley spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:40:04 Julie Kottak spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

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REBUTTAL:

02:46:37 Nick Pregliasco spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

02:50:13 Taylor Yoakley (Project Manager for Dominion, 9412 Continental Drive, Knoxville, TN 37922) spoke in regard to the berm and fence. Mr. Yoakley responded to questions from the Board Members (see recording for detailed presentation).

02:54:36 Mr. Pregliasco and Mr. Yoakley responded to questions from the Board Members (see recording for detailed presentation).

03:04:50 Mr. Pregliasco spoke in rebuttal in regard to traffic concerns. Mr. Pregliasco responded to questions from Legal Counsel and the Board Members regarding clarification of the Conditions of Approval (see recording for detailed presentation).

03:10:00 Board Members' deliberation

03:12:53 On a motion by Vice Chair Fishman, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, the discussion, and the presentation, was adopted:

Modified Conditional Use Permit to allow an independent living facility in a R-3 and R-4 zoning district and Neighborhood Form District, with relief from Item 4.2.38A:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the policies of the Comprehensive Plan. The applicant will be asking for a variance and waiver from the Land Development Code, and

WHEREAS, the Board further finds that the proposal is compatible with the previously approved plan. This proposal will be compatible with the general character of the area including traffic, noise, dust, and lighting, and

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

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and approved the proposal. The Harrods Creek Fire Protection District reviewed the proposal and provided comments, and

WHEREAS, the Board further finds that:

4.2.38 Nursing Homes and Homes for the Infirm or Aged – Nursing Homes and Homes for the Infirm or Aged may be permitted in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. All buildings shall be located at least 30 feet from any property line. **The proposed structure will be 25 feet from the north property line and 20 feet from the south property line.**
- B. One sign, not to exceed 60 square feet and six feet in height, may be placed at each of the major entrances, except in districts where larger signs are allowed.
- C. The Board of Zoning Adjustment shall add any restrictions to mitigate nuisances or adverse effects; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1031 does hereby **APPROVE** Modified Conditional Use Permit to allow an independent living facility in a R-3 and R-4 zoning district and Neighborhood Form District, with Relief from Item 4.2.38A, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

- 1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
- 2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for an independent living facility without further review and approval by the Board.
- 3. Development on Tract 1 (assisted living facility) and Tract 2 (independent living facility) are functionally related through a program of continuum of

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- care which for the purposes of this condition is defined as “a variety of senior care services focused on the stages of aging.” If this program of continuum of care is discontinued on Tract 1 (or Tract 1 becomes an independent living facility as well), then an application for a modification of the conditional use permit shall be submitted to the Board of Zoning Adjustment for review. If the Board finds that the continuum of care program is no longer in place, then the independent living facility (Tract 2) must qualify for a zoning classification as a “care facility” pursuant to LDC 4.2.38(Nursing Homes and Homes for the Aged and Infirm) or must apply for a rezoning to a residential multi-family zoning classification.
4. The proposed new building shall have fire suppression sprinklers installed throughout the building.
 5. Exterior construction for the proposed new building shall be limited to 7:00 a.m. to 6:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. on Saturday, with no exterior construction activity on Sunday.
 6. Trash and garbage pickups for the proposed new building and the existing building under renovation shall only occur between the hours of 7:30 a.m. and 5:30 p.m. any day of the week.
 7. All deliveries for operation of the new proposed building shall occur between the hours of 7:30 a.m. and 5:30 p.m. any day of the week. The only tractor-trailer deliveries for operations purposes shall be for food service delivery.
 8. In addition to the Louisville Metro Land Development Code requirements, all exterior lighting for the new proposed building and parking lot shall be limited to 20 feet in height and shall be fully shielded with luminaires pointed downward.
 9. The applicant shall extend the fence line to connect with the current fence which is behind the existing building located on Tract 1.

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The vote was as follows:

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

Absent: Member Leanhart

03:18:16 On a motion by Vice Chair Fishman, seconded by Member Young, the following resolution, based upon the site plan, and the testimony heard today, was adopted:

Category 3 Review (18DEVPLAN1025):

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1031/18DEVPLAN1025 does hereby **APPROVE** the Category 3 Review.

The vote was as follows:

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

Absent: Member Leanhart

03:20:00 On a motion by Vice Chair Fishman, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the applicant's justification, was adopted:

Variance to allow proposed parking to encroach into the proposed required rear yard:

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 located on the interior of the site facing the existing structure, and

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WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity because the parking addition will match the existing parking and provide internal landscape areas that will be code compliant, 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 located on the interior of the site facing the existing structure, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the proposed parking is located on the interior of the site facing the existing structure, and

WHEREAS, the Board further finds that the requested variance does not arise from any special circumstances. The applicant is proposing to add a new property line for financing purposes, 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 proposed parking would have to be reduced or reconfigured, and

WHEREAS, the Board further finds that the applicant is responsible for the proposed new property line and location of the parking area, and

WHEREAS, the Board further finds that the variance will not adversely affect the public health, safety, or welfare due to the property line being added for financial purposes only and shall only affect the subject site not the general public, and

WHEREAS, the Board further finds that the variance shall not alter the character of the general vicinity due to the subject site's character being similar to other properties in the area. The proposed property line is for financial purposes and not truly a subdivision of properties, and

WHEREAS, the Board further finds that the variance will not cause a hazard or nuisance to the public, the proposed property line is for financial reasons and the site shall be retained and ran as one entity, and

WHEREAS, the Board further finds that the variance will not allow an unreasonable circumvention of zoning regulations, the property line is for financial purposes and does not constitute a subdivision of uses or owners. The entire property shall act as the facilities for both buildings, and

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WHEREAS, the Board further finds that the land in the general vicinity of the subject site is mainly residential, there are some similar properties located across Interstate 264 that have similar circumstances. This property is one entity however the proposed property line is needed for construction financing, and **WHEREAS**, the Board further finds that the strict application of the regulation would create unnecessary hardship on the applicant due to the site constraints and the required size of the proposed detention basin and parking lot, and

WHEREAS, the Board further finds that the circumstances are not the result of actions subsequent to the adoption of the regulation; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1031 does hereby **APPROVE** Variance to allow proposed parking to encroach into the proposed required rear yard (**Requirement 15', Request 0', Variance 15'**).

The vote was as follows:

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

Absent: Member Leanhart

03:21:57 On a motion by Vice Chair Fishman, seconded by Member Young, the following resolution, based upon the presentation, the Standard of Review and Staff Analysis, and the applicant's waiver justification, was adopted:

Waiver to omit the required landscape buffer area along the proposed property line between the existing structure and proposed structure:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the parking area is located on the interior of the site facing the existing structure. The new parking area will provide internal landscape areas that will be code compliant, and

WHEREAS, the Board further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate.

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Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the proposed parking would have to be reduced or reconfigured, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land by limiting the number of parking spaces, and

WHEREAS, the Board further finds that the requested waiver shall only affect the two properties being created with this Revised Development Plan and corresponding Minor Plat. The existing perimeter property boundary between the subject properties and the adjacent property owners has an existing stand of trees and screening privacy fence which screens the area of waiver from all adjacent property owners, and

WHEREAS, the Board further finds that the waiver does not violate the Comprehensive Plan due to the site, while separate, being the same land use, conditional use, intensity, and form district. Both facilities are compatible uses with one another, the property line addition is for construction financial purposes, and

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WHEREAS, the Board further finds that the waiver of the regulation is the minimum necessary to give relief to the applicant due to the limited space on the subject site for the required site elements such as the proposed parking and detention basin, and

WHEREAS, the Board further finds that the strict application of the provision would deprive the applicant from reasonable use of the land. The developer has meet and worked with the City of Northfield and the adjacent property owners to create a site layout plan and proposed building that is acceptable and fitting the surrounding neighborhood context. The limitations of the site require the proposed parking and detention basin to be located within the area that the required landscape buffer yard would go; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1031 does hereby **APPROVE** Waiver to omit the required landscape buffer area along the proposed property line between the existing structure and proposed structure (**Requirement 15', Request 0', Variance 15'**).

The vote was as follows:

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

Absent: Member Leanhart

03:23:10 Meeting was recessed.

03:23:25 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 18CUP1035

Request: Conditional Use Permit (CUP) for Cemeteries and Mausoleums
Project Name: Cremated Remains Site
Location: 330 N. Hubbards Lane
Owner/Applicant: St. Matthews Episcopal Church
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
Case Manager: Beth Jones, AICP, Planner II

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

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

Agency Testimony:

03:23:44 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones submitted a revised site plan to the Board Members. Ms. Jones advised the Board Members of the changes to the Staff Report in relation to the revised site plan (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

John Talbott, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223
Kelly Kirby, 9003 Willow Springs, Louisville, KY 40242

Summary of testimony of those in favor:

03:36:09 John Talbott spoke on behalf of the applicant in favor of the request and showed a Powerpoint presentation. Mr. Talbott responded to questions from the Board Members (see recording for detailed presentation).

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03:42:45 Kelly Kirby spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

03:44:05 Mr. Talbott spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

03:45:17 Ms. Kirby responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

03:47:05 Board Members' deliberation

03:48:23 On a motion by Vice Chair Fishman, seconded by Member Young, the following resolution, based upon the Standard of Review and Staff Analysis, the presentation, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with Comprehensive Plan policies as detailed in the Cornerstone checklist (Attachment 3), and

WHEREAS, the Board further finds that the proposal is compatible with existing development in the vicinity and the general character of the area, and

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

WHEREAS, the Board further finds that:

Cemeteries, Mausoleums, and Crematories may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the following requirements:

- A. Fences - A fence, with a minimum height of 6 feet, shall be erected around the premises with openings only for ingress and egress to a public way. ***The***

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applicant has requested relief from this requirement. Since this is an internal site with no vehicular access from a public way, staff concurs with this request.

- B. Required Yards - No required yard shall be occupied by graves. There shall be a 30 foot landscaped or open space buffer between the property line and any building, structure, or gravesite. No gravesites shall be placed closer than 30 feet from any property line and at least 30 feet from the right-of-way line for existing and planned public streets. This shall not apply to roads designed for internal circulation within the cemetery, mausoleum or crematory property. **The applicant has requested relief from this requirement. The boundary of the proposed cremated remains site encroaches on the 30 ft. buffer requirement at its southeast and southwest corners. Since this is an internal site within private property and will not further infringe on any public or private adjoining uses, staff concurs with this request.**
- C. All roads used solely for internal circulation shall have a minimum pavement width of 16 feet and a minimum shoulder width of 6 feet on each side of the pavement. Roads providing access to chapels or offices shall have minimum pavement width of 20 feet. **This condition does not apply to the proposal;** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1035 does hereby **APPROVE** Conditional Use Permit for Cemeteries and Mausoleums (LDC 4.2.13) with Relief from LDC 4.2.13.A (to not construct the required fence) and Relief from LDC 4.2.13.B (to permit the cremated remains site to encroach on the required 30 ft. buffer from the existing buildings), and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. All development shall be in accordance with the approved district development plan, including all notes thereon, and with all applicable sections of the Land Development Code (LDC). No further development shall occur on the site without prior review of and approval by the Board of Zoning Adjustment (BOZA).
2. The Conditional Use Permit shall be exercised as proscribed by KRS 100.237 within two years of BOZA approval. If it is not so exercised, the

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- site shall not be used for a Cemetery or Mausoleum without further review and approval by BOZA.
3. The applicant shall submit the site plan as presented at the July 30, 2018 BOZA meeting.
 4. The applicant shall submit the minutes from the neighborhood meeting.

The vote was as follows:

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

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Request:	Conditional Use Permit (CUP) to allow short term rental of dwelling units not the primary residence of the host
Project Name:	Franklin Street Short Term Rental
Location:	832 Franklin Street
Owner/Applicant:	The Randolph House LLC
Representative:	Key Source Properties LLC
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Beth Jones, AICP, Planner II

NOTE: Members Young and Howard left at approximately 5:05 p.m.

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

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

Agency Testimony:

03:53:22 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:

Graham Clark, 14 Hawthorn Hill, Louisville, KY 40204

Summary of testimony of those in favor:

03:59:19 Graham Clark spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

04:06:18 Board Members' deliberation

04:06:38 On a motion by Member Turner, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

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

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

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **The applicant will rent a unit on the first floor and another on the second and third floors. The**

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first floor unit includes two bedrooms; up to eight guests are permitted. The second/third floor unit includes three bedrooms; up to ten guests are permitted.

- D. The dwelling unit shall be a single-family residence, duplex or condominium. This provision shall not be waived or adjusted. **PVA lists the existing structure as a residential duplex, a permitted use in the zone.**
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **LDC regulations require one space for each dwelling unit. Based on LDC standards, the 52 ft. property frontage is credited with two on-street parking spaces. A garage at the rear of the site, accessible via a rear alley, provides off-street parking for up to three vehicles; an adjoining parking pad provides an additional space.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1048 does hereby **APPROVE** Conditional Use Permit to allow short term rental of two dwelling units not the primary residence of the host (LDC 4.2.63), **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the

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Louisville Metro Revenue Commission. If the short term rental is not registered with Develop Louisville and with the Revenue Commission within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.

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

The vote was as follows:

Yes: Members Buttorff, Turner, Vice Chair Fishman, and Chair Allendorf

Absent: Members Leanhart, Young, and Howard

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ADJOURNMENT

The meeting adjourned at approximately 5:20 p.m.

Chair

Secretary