

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

December 18, 2017

A meeting of the Louisville Metro Board of Zoning Adjustment was held on December 18, 2017 at 8:30 a.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

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

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Haberman, Planning & Design Manager
Steve Hendrix, Planning & Design Supervisor
Steve Lutz, Planning Coordinator
Beth Jones, Planner II
Dante St. Germain, Planner I
Ross Allen, Planner I
John Carroll, Legal Counsel
Travis Fiechter, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

DECEMBER 4, 2017 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:04:10 On a motion by Member Howard, seconded by Member Fishman, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on December 4, 2017, **WITH CORRECTIONS** as noted.

The vote was as follows:

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

Abstain: Vice Chair Jarboe

BOARD OF ZONING ADJUSTMENT MINUTES
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BUSINESS SESSION

CASE NUMBER 17VARIANCE1106

Request:	Variance to allow a structure to encroach into the required side yard setback
Project Name:	1415 Christy Avenue Addition
Location:	1415 Christy Avenue
Owner:	STR Capital LLC
Applicant:	Gary Shearer
Representative:	Gary Shearer
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Joseph Haberman, AICP, Planning Manager

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:

00:06:54 Joe Haberman presented the case and responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Gary Shearer, 6620 Nightingale Bluff Lane, Louisville, KY 40241

Summary of testimony of those in favor:

00:08:19 Gary Shearer spoke in favor of the request and responded to questions from the Board Members. Mr. Shearer showed the Board Members pictures on his telephone (see recording for detailed presentation).

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BUSINESS SESSION

CASE NUMBER 17VARIANCE1106

The following spoke in opposition of the request:
No one spoke.

00:11:10 On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the addition is proposed to have the same footprint as the existing structure, which has caused no known adverse effects, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the neighborhood is characterized by narrow lots with buildings that encroach into the required side yard setbacks, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed addition will have the same setback as the existing structure, which has caused no known hazard or nuisance, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as requiring the second story to be stepped back to observe the required setback would cause significant engineering challenges to carry the load of the second floor, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the addition is proposed to follow the existing setback with no expansion to the building footprint, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the applicant to offset the second floor from the load-bearing walls of the first floor, creating significant engineering challenges, and

WHEREAS, the Board further find 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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CASE NUMBER 17VARIANCE1106

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 17VARIANCE1106 does hereby **APPROVE** Variance from Land Development Code Section 5.1.10.F to allow a structure to encroach into the required side yard setback (**Requirement 2.5 ft., Request 2 ft., Variance 0.5 ft.**), based upon the Staff Report, and the applicant's justification.

The vote was as follows:

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

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BUSINESS SESSION

CASE NUMBER 17VARIANCE1094

Request:	Variance to allow a structure to encroach into the required side yard setbacks
Project Name:	11705 Cedardale Road
Location:	11705 Cedardale Road
Owner:	Eric Abell
Applicant:	Eric Abell
Representative:	Eric Abell
Jurisdiction:	Louisville Metro
Council District:	11 – Kevin Kramer
Case Manager:	Beth Jones, 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:

00:13:28 Beth Jones presented the case and showed the site plan (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Eric Abell, 11705 Cedardale Road, Anchorage, KY 40223

Summary of testimony of those in favor:

00:16:16 Eric Abell 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 17VARIANCE1094

00:17:20 On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the long, narrow shape of the site and the placement of the existing residence restricts the applicant's options for placement of the garage to the area being requested, and

WHEREAS, the Board further finds that due to the design of the existing residence and its location on the site, the proposed placement of the garage is the only option available to the applicant, and

WHEREAS, the Board further finds that the zoning regulations from which relief is being sought were in place before the applicant proposed this development, and

WHEREAS, the Board further finds that the requested reductions of side yard requirements will not deprive adjacent properties or the public right-of-way of light, air or privacy and will not cause a hazard or nuisance. The structure will be placed at a significant distance from the nearest neighboring structure, and that property owner has no objection to the proposal, and

WHEREAS, the Board further finds that the long, narrow shape of the site and the placement of the existing residence restricts the applicant's options for placement of the garage to the area being requested, and

WHEREAS, the Board further finds that due to the design of the existing residence and its location on the site, the proposed placement of the garage is the only option available to the applicant, and

WHEREAS, the Board further finds that the zoning regulations from which relief is being sought were in place before the applicant proposed this development; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1094 does hereby **APPROVE** Variance from Land Development Code for the City of Anchorage 4.3.C.2.b to allow a structure to encroach into the required side yard setback (**Side Yard Setback Requirement 15 ft., Request 10 ft., Variance 5 ft.; Total of both side yard setbacks Requirement 45 ft., Request 25 ft., Variance 20 ft.**), based upon the Staff Report, the testimony and the site plan.

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CASE NUMBER 17VARIANCE1094

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 17VARIANCE1098

Request:	Variance to allow a structure to encroach into the required Moyle Hill Road street side yard setback
Project Name:	New garage
Location:	2167 Millvale Road
Owner:	Benjamin A Coode & Sarah E
Applicant:	Benjamin A Coode
Representative:	Benjamin A Coode
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Stephen A. Lutz, AICP, Planning 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:

00:19:10 Stephen Lutz presented the case and showed a Powerpoint presentation. Mr. Lutz responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Benjamin Coode, 2167 Millvale Road, Louisville, KY 40205

Summary of testimony of those in favor:

00:27:23 Benjamin Coode spoke in favor of the request. Mr. Coode provided the Board Members with signatures from his neighbors. Mr. Coode responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 17VARIANCE1098

The following spoke neither for nor against the request:

Michael McMahon, 2195 Millvale Road, Louisville, KY 40205

Summary of testimony of those neither for nor against:

00:29:58 Michael McMahon spoke neither for nor against the request. Mr. McMahon showed a Powerpoint presentation and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

REBUTTAL:

00:45:20 Mr. Coode chose not to speak in rebuttal (see recording for detailed presentation).

00:45:30 Board Members' deliberation

00:46:26 On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the garage will be enclosed by an existing fence, with vegetation between the fence and the garage. In addition, the garage is slightly below the grade of Moyle Hill Road, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as Moyle Hill Road functionally serves as alley access, with many garages that access it, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the garage will be constructed according to building code and is not in conflict with any public right of way or utility services, and

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WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the garage will be largely concealed by the existing fence, vegetation and grade change. The fact that this is a triple frontage lot is an unusual circumstance, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because this lot has frontage of three public streets and Moyle Hill functions as an alley. Moyle Hill Road has only 30-feet of right of way and is used by all the lots on it for accessory structure access, and

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

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is not responsible for the fact that this site is a triple frontage lot, 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 17VARIANCE1098 does hereby **APPROVE** Variance from Land Development Code Section 5.3.1.C.2 to allow a structure (garage) to encroach into the required Moyle Hill Road street side yard setback (**Requirement 19.15 ft., Request 15.0 ft., Variance 4.15 ft.**), based upon the Staff Report, the site plan, and the applicant's justification.

The vote was as follows:

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

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CASE NUMBER 17VARIANCE1089

Request:	Variance to allow a structure to encroach into the required side yard setback
Project Name:	509 E Oak Street Renovation
Location:	509 E Oak Street
Owner:	First Dime Properties LLC
Applicant:	Jason Weiss
Representative:	Jason Weiss
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
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:

00:48:44 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:

Jason Weiss, 4 Lincoln Run Road, Louisville, KY 40245

Summary of testimony of those in favor:

00:52:59 Jason Weiss spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:54:28 Ms. St. Germain responded to questions from the Board Members regarding the site plan (see recording for detailed presentation).

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00:55:14 Mr. Weiss responded to questions from the Board Members (see recording for detailed presentation).

00:56:12 Board Members' deliberation

00:57:15 On a motion by Member Fishman, seconded by Member Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the renovated structure will be constructed according to building code on the same footprint as the prior structure, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the existing encroachment into the setback is part of the essential character of the neighborhood, and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the renovated structure is proposed to observe the same footprint as the existing structure. To have the second story set back the required distance would not be feasible due to the engineering loads on the walls to support the weight of the second story, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the existing structure does not meet the required setback, and the renovation is proposed to follow the same footprint, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the applicant to shift the rear portion of the structure on the lot rather than follow the existing footprint, 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 and has not begun construction; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1089 does hereby **APPROVE** Variance from Land Development Code Section 5.1.10.F to allow a structure to encroach into the required side yard setback (**Requirement 2.5 ft., Request 1.25 ft., Variance 1.25 ft.**), based upon the Staff Report, the presentation, and the site plan.

The vote was as follows:

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

00:59:01 Meeting was recessed.

00:59:24 Meeting was reconvened.

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CASE NUMBER 17VARIANCE1091

Request:	Variance to allow a fence in the street side yard setback to exceed 48 inches in height, and variance to allow a private swimming pool to encroach into the street side yard setback
Project Name:	6701 Santom Lane Fence & Pool
Location:	6701 Santom Lane
Owner:	Robert & Susan Marshall
Applicant:	Robert Marshall
Representative:	Robert Marshall
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
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:

00:59:51 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:

Robert Marshall, 6701 Santom Lane, Louisville, KY 40291

Summary of testimony of those in favor:

01:04:40 Robert Marshall responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 17VARIANCE1091

The following spoke in opposition of the request:

No one spoke.

01:07:08 Board Members' deliberation

01:09:44 On a motion by Vice Chair Jarboe, seconded by Member Young, the following resolution was adopted:

Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence in the street side yard in the Neighborhood form district to exceed 48 inches in height:

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 fence does not extend to the corner and does not obstruct sight lines for drivers, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as there is a similar fence on a similarly situated corner property across the street from the subject property, and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as a fence is needed to protect a pool, and the six-foot height provides better deterrence to children compared with a four-foot height, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because an easement running through the rear yard of the subject property reduces the useable rear yard space, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the applicant to reduce the height of an existing fence to 4 feet, and

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WHEREAS, the Board further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the fence has already been constructed, and

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

Variance from Land Development Code Section 4.4.10.A to allow a private swimming pool to encroach into the required street side yard setback:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the pool is protected by an existing fence, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the pool is screened by an existing privacy fence, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the pool has existed for at least 11 years without causing a known hazard or nuisance, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as an easement in the rear of the subject property limits the possible location of a pool, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because an easement running through the rear yard of the subject property reduces the useable rear yard space, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the applicant to relocate an existing pool, and

WHEREAS, the Board further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the pool has already been constructed, and

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

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CASE NUMBER 17VARIANCE1091

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1091 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 in the Neighborhood form district to exceed 48 inches in height (**Requirement 4 ft., Request 6 ft., Variance 2 ft.**), and Variance from Land Development Code Section 4.4.10.A to allow a private swimming pool to encroach into the required street side yard setback (**Requirement 30 ft., Request 15 ft., Variance 15 ft.**), based upon the Staff Report, the applicant's justification, and the fact that the fence and pool have been there for many years.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 17VARIANCE1093

Request:	Variance to allow a private yard area to be less than 30% of the area of a lot
Project Name:	320 W Kenwood Way Garage
Location:	320 W Kenwood Way
Owner:	Diane Moon
Applicant:	Kevin Hoskins
Representative:	Kevin Hoskins
Jurisdiction:	Louisville Metro
Council District:	21 - Vacant
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:

01:11:52 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 Hoskins, 4724 Brownsboro Road, Louisville, KY 40207

Summary of testimony of those in favor:

01:15:55 Kevin Hoskins 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 17VARIANCE1093

01:17:49 Board Members' deliberation

01:18:15 On a motion by Member Fishman, seconded by Member Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as significant private yard area will remain, as well as green space in the front of the principal structure and beside the garage, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as some other private yard areas of similar dimensions exist in the general vicinity, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as significant open space will remain on the lot to manage rain events, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed garage is of a relatively small size and in a suitable location for the form district and lot pattern, 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 of a similar size as other lots in the general vicinity, and is regular in shape, and

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

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

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

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CASE NUMBER 17VARIANCE1093

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1093 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.2 to allow the private yard area on a lot greater than 6,000 square feet in area to be less than 30% of the area of the lot (**Requirement 2,025 sf [30%], Request 990 sf [14.7%], Variance 1,035 sf [15.3%]**), based the Staff Report, the site plan and elevations, and the applicant's justification.

The vote was as follows:

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

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CASE NUMBER 17VARIANCE1092

Request:	Variance to allow a fence in the front yard setback to exceed 48 inches in height
Project Name:	7700 Roswell Way Fence
Location:	7700 Roswell Way
Owner:	Scott Spence
Applicant:	Scott Spence
Representative:	Scott Spence
Jurisdiction:	Louisville Metro
Council District:	11 – Kevin Kramer
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:

01:20:49 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:
Scott Spence, 7700 Roswell Way, Louisville, KY

Summary of testimony of those in favor:

01:25:45 Scott Spence spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 17VARIANCE1092

The following spoke in opposition of the request:

No one spoke.

01:31:00 Dante St. Germain responded to questions from the Board Members (see recording for detailed presentation).

01:32:45 Board Members' deliberation

01:36:07 On a motion by Vice Chair Jarboe, seconded by Member Young, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds, based upon the evidence and testimony presented today, that all of the applicable Standards for granting a variance established in the Land Development Code are being met; now therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1092 does hereby **APPROVE** Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence in the front yard in the Neighborhood form district to exceed 48 inches in height (**Requirement 4 ft., Request 6 ft., Variance 2 ft.**), acknowledging the staff conclusions and analysis of Items B and D that the interpretation of the front yard is per Code, yet the applicant's justification statement acknowledges the intent of using the Code defined front yard as a recreational area for his children, as justifying the violation of the fence height.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 17DEVPLAN1197

Request:	Review of a Category 3 Development Plan for the Beecher Terrace Lifelong Wellness Building – Phase I mixed-use in the Downtown Form District and having two setback variances and two waivers.
Project Name:	Beecher Terrace Senior Living
Location:	320 Roy Wilkins Ave.
Owner:	Tim Barry – Louisville Metro Housing Authority
Applicant:	Tim Barry – Louisville Metro Housing Authority
Representative:	Missy Legel – Civil Design Inc.
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
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:

01:38:41 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:

Missy Legel, 3404 Stonyspring Circle, Louisville, KY 40220
Bernard Pincus, Louisville Metro Housing Authority, 420 S. 8th Street, Louisville, KY 40203

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Summary of testimony of those in favor:

01:51:13 Missy Legel spoke in favor of the request and showed a Powerpoint presentation. Ms. Legel responded to questions from the Board Members (see recording for detailed presentation).

02:00:45 Bernard Pincus 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.

02:14:02 Board Members' deliberation

02:14:09 Ross Allen responded to questions from the Board Members regarding the development plan. Mr. Allen provided the Board Members with the Category 3 Development Plan to be approved (see recording for detailed presentation).

02:18:12 On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution was adopted:

Category 3 Development Plan:

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17DEVPLAN1197 does hereby **APPROVE** Category 3 Development Plan (development plan dated 10/23/17), for the proposed mixed-use 4 story 111,357 sf. of the Beecher Terrace Lifelong Wellness Building – Phase I as associated with the Vision Russell Transformation Plan, based upon the development plan submitted dated 10/23/17, the Staff Report and testimony of the developer.

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The vote was as follows:

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

02:19:58 On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution was adopted:

Variance #1 from LDC Section 5.2.1.C.2 to not provide/maintain a street wall, at least 3 stories in height, for the lengths of the lot frontage(s) as found along Liberty Street (proposed), South 10th Street, and Roy Wilkins Ave./9th Street:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect public health safety or welfare since the proposed facility is part of a revitalization of the existing neighborhood which is specifically intended to improve the public safety, health, and welfare. The proposed building is keeping with the building patterns for the existing and proposed residential development and therefore presents a uniform design which will be appealing and safe for the senior residents. This variance will provide space for a better layout for building walks/ramps to safely access the building on the east side and for a nice area that is being proposed for a social gathering place near the pool. Since the site is bound by public streets on all 4 sides, the variance would allow for the removal of the zero foot setback/street wall on the corners which will enhance safety by improving pedestrian and vehicular sight distance. It further provides for more greenspace which will improve the health and welfare of the residents, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the proposed structure will be in the character of the existing multi-family residential properties that are located across West Jefferson Street and West Muhammad Ali Blvd. The existing and future proposed multi-family residential developments in the area do not and will not have building setbacks of less than 15 feet nor zero foot setbacks/street wall at the corners, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the intent is to enhance the area with added benefits such as parking and pool amenities for this senior housing facility.

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It also allows for the removal of the zero foot setbacks/street walls on the corners which eliminates unsafe sight distance issues, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations since the development is revitalizing the existing neighborhood with the intent to provide safe, affordable, and appealing senior housing facility. The variance request is expressly for the improvement of the quality of life in the area and in no way represents an unreasonable circumvention of the zoning regulations, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the need for more space to allow sidewalks/ramps with access to entrances/exits on the East 9th Street/Roy Wilkins Ave side and for a fenced in social gathering place on the west, South 10th street, side. The variance allows for the proposed facility to be consistent with the existing and proposed future residential developments and presents a uniform design in the larger project area which will be appealing and safe for the senior residents, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since strict compliance would force restrictions on walkways and eliminate the potential of creating a nice social gathering place near the pool area, and

WHEREAS, the Board further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought because the applicant is revitalizing the existing Beecher Terrace Housing Development that has existed since 1939, and

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

Variance #2 from LDC Section 5.2.1.C.3 to allow the proposed building setback to exceed 15 feet as measured from the right of way along Fisk Court and South 10th Street:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect public health safety or welfare since the proposed facility is part of a revitalization of the existing neighborhood which is specifically intended to improve the public safety, health, and welfare. The

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proposed building is keeping with the building patterns for the existing and proposed residential development and therefore presents a uniform design which will be appealing and safe for the senior residents. This variance will provide space for a better layout for building walks/ramps to safely access the building on the east side and for a nice area that is being proposed for a social gathering place near the pool. Since the site is bound by public streets on all 4 sides, the variance would allow for the removal of the zero foot setback/street wall on the corners which will enhance safety by improving pedestrian and vehicular sight distance. It further provides for more greenspace which will improve the health and welfare of the residents, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the proposed structure will be in the character of the existing multi-family residential properties that are located across West Jefferson Street and West Muhammad Ali Blvd. The existing and future proposed multi-family residential developments in the area do not and will not have building setbacks of less than 15 feet nor zero foot setbacks/street wall at the corners, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the intent is to enhance the area with added benefits such as parking and pool amenities for this senior housing facility. It also allows for the removal of the zero foot setbacks/street walls on the corners which eliminates unsafe sight distance issues, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations since the development is revitalizing the existing neighborhood with the intent to provide safe, affordable, and appealing senior housing facility. The variance request is expressly for the improvement of the quality of life in the area and in no way represents an unreasonable circumvention of the zoning regulations, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the need for more space to allow sidewalks/ramps with access to entrances/exits on the East 9th Street/Roy Wilkins Ave side and for a fenced in social gathering place on the west, South 10th street, side. The variances allow for the proposed facility to be consistent with the existing and proposed future residential developments and presents a uniform design in the larger project area which will be appealing and safe for the senior residents, and

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WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since strict compliance would force restrictions on walkways and eliminate the potential of creating a nice social gathering place near the pool area, and

WHEREAS, the Board further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought because the applicant is revitalizing the existing Beecher Terrace Housing Development that has existed since 1939, and

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

Variance #3 from LDC Section 5.2.1.C.6 to allow a corner lot within the Downtown Form District to not maintain a zero foot setback from the street wall for at least 50 feet from the intersection along each street, or the width of the lot, whichever is less:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect public health safety or welfare since the proposed facility is part of a revitalization of the existing neighborhood which is specifically intended to improve the public safety, health, and welfare. The proposed building is keeping with the building patterns for the existing and proposed residential development and therefore presents a uniform design which will be appealing and safe for the senior residents. This variance will provide space for a better layout for building walks/ramps to safely access the building on the east side and for a nice area that is being proposed for a social gathering place near the pool. Since the site is bound by public streets on all 4 sides, the variance would allow for the removal of the zero foot setback/street wall on the corners which will enhance safety by improving pedestrian and vehicular sight distance. It further provides for more greenspace which will improve the health and welfare of the residents, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the proposed structure will be in the character of the existing multi-family residential properties that are located across West Jefferson Street and West Muhammad Ali Blvd. The existing and future proposed multi-family residential developments in the area do not and will not have building setbacks of less than 15 feet nor zero foot setbacks/street wall at the corners, and

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WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the intent is to enhance the area with added benefits such as parking and pool amenities for this senior housing facility. It also allows for the removal of the zero foot setbacks/street walls on the corners which eliminates unsafe sight distance issues, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations since the development is revitalizing the existing neighborhood with the intent to provide safe, affordable, and appealing senior housing facility. The variance request is expressly for the improvement of the quality of life in the area and in no way represents an unreasonable circumvention of the zoning regulations, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the need for more space to allow sidewalks/ramps with access to entrances/exits on the East 9th Street/Roy Wilkins Ave side and for a fenced in social gathering place on the west, South 10th street, side. The variances allow for the proposed facility to be consistent with the existing and proposed future residential developments and presents a uniform design in the larger project area which will be appealing and safe for the senior residents, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since strict compliance would force restrictions on walkways and eliminate the potential of creating a nice social gathering place near the pool area, and

WHEREAS, the Board further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought because the applicant is revitalizing the existing Beecher Terrace Housing Development that has existed since 1939, 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 17DEVPLAN1197 does hereby **APPROVE** Variance #1 from LDC Section 5.2.1.C.2 to not provide/maintain a street wall, at least 3 stories in height, for the lengths of the lot frontage(s) as found along Liberty Street (proposed), South 10th Street, and Roy Wilkins Ave./9th Street, Variance #2 from LDC Section

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5.2.1.C.3 to allow the proposed building setback to exceed 15 feet as measured from the right of way along Fisk Court and South 10th Street, and Variance #3 from LDC Section 5.2.1.C.6 to allow a corner lot within the Downtown Form District to not maintain a zero foot setback from the street wall for at least 50 feet from the intersection along each street, or the width of the lot, whichever is less, based upon the Staff Report, and the applicant's justification as presented today.

The vote was as follows:

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

02:21:45 On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution was adopted:

Waiver #1 from LDC Section 5.5.1.B.1.a.ii to allow surface parking to not be located completely behind all principal structures as found along Fisk Court:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the developer of the proposed Senior Living Facility is the Louisville Metro Housing Authority (LMHA). LMHA is the owner of the adjacent properties to the north, west, and south of this site. The adjacent properties to the east across Roy Wilkins Ave. are owned by LMHA or Louisville Metro Government. The development is bound by public streets on all sides. By definition it is impossible to have parking and access from the rear of the building, and

WHEREAS, the Board further finds that Guideline 2, Policy 15 encourages the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Guideline 7, Policy 3 states to evaluate developments for their ability to promote mass transit and pedestrian use. Encourage higher density mixed use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation choices. Therefore, the waivers will not violate specific guidelines and Policies of Cornerstone 2020 since better mobility for senior residents to access their vehicles and TARC routes 53X, 61X, and 64X passing along Roy Wilkins Ave/9th Street, and

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WHEREAS, the Board further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since the minimum amounts have been requested in order to provide for efficient and easy accessibility to the parking spaces, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since strict compliance would force restrictions on the overall development goals of providing convenient access and improve quality of life for this senior residential facility, and

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

Waiver #2 from LDC 5.8.1.C.1.b to not provide sidewalks at least 84 inches wide and not being constructed from the building façade to the face or the curb along Fisk Court (proposed), Liberty Street (proposed), South 10th Street, and Roy Wilkins Ave./9th Street:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the developer of the proposed senior living facility is the Louisville Metro Housing Authority (LMHA). LMHA is also the owner of the adjacent properties to the north, west, and south of this site. The adjacent properties to the east across Roy Wilkins Ave. are owned by LMHA or Louisville Metro Government. The waiver will relieve the requirement of having sidewalks immediately adjacent to the wall where resident windows are located. The waiver will also allow for 72 inch wide sidewalks rather than the required 84 inch wide sidewalks and additional greenspace. Eighty-four inch sidewalks are not needed due to the lower density of the pedestrian population in this development, and

WHEREAS, the Board further finds that the waiver will not violate 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 subject site has sidewalks along the eastern and western sides while the applicant will provide 6 foot/72 inch wide sidewalks along the newly

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proposed Liberty Street and Fisk Court allowing pedestrian, bicyclist, and transit user's movement. The waiver will allow for more secure lay-out with the existing and proposed sidewalks being placed away from residential windows and therefore fits within the goal of having safe and secure senior housing, 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 applicant is requesting the minimum amount in order to provide a lesser width of sidewalks and provide for more greenspace, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since not granting the waiver would require the construction of sidewalks that are not necessary with the lower pedestrian traffic. Strict compliance would also require sidewalks to be constructed immediately adjacent to the street wall, applicant is requesting a variance from building to the street wall, resulting in a safety concern, 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 17DEVPLAN1197 does hereby **APPROVE** Waiver #1 from LDC Section 5.5.1.B.1.a.ii to allow surface parking to not be located completely behind all principal structures as found along Fisk Court, and Waiver #2 from LDC 5.8.1.C.1.b to not provide sidewalks at least 84 inches wide and not being constructed from the building façade to the face or the curb along Fisk Court (proposed), Liberty Street (proposed), South 10th Street, and Roy Wilkins Ave./9th Street, based upon the site plan, the staff's findings and recommendations and the applicant's justification statements.

The vote was as follows:

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

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Request:	Category 3 Review for proposed conversion of an existing 34,422 sf. warehouse with fourth floor addition to have 25 residential dwelling units
Project Name:	East Kentucky Lofts
Location:	938 East Kentucky Street and 913 East Saint Catherine St.
Owner:	John Gonder and Ruthanne Wolfe – Acme Lupine & Co.
Applicant:	Ryan Lykins – Private Developer
Representative:	Missy Legel – Civil Design Inc.
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
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:

02:23:42 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:

Missy Legel, 3404 Stonyspring Circle, Louisville, KY 40220
John Gonder, 1000 Swan Street, Louisville, KY

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Summary of testimony of those in favor:

02:34:50 Missy Legel spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:41:21 John Gonder 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:

Phil Jones, 917 E. St. Catherine Street, Louisville, KY

Summary of testimony of those neither for nor against:

02:45:15 Phil Jones spoke neither for nor against the request. Mr. Jones stated his only concern is the parking (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

REBUTTAL:

02:46:53 Missy Legel spoke in rebuttal and addressed the ingress/egress issues. Ms. Legel responded to questions from the Board Members (see recording for detailed presentation).

02:49:20 Mr. Jones asked a question in regard to the plan for the parking entrance (see recording for detailed presentation).

02:51:12 Ms. Legel responded to questions from Mr. Jones and the Board Members (see recording for detailed presentation).

02:53:15 Board Members' deliberation

02:57:25 On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution was adopted:

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Category 3 Development Plan:

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17DEVPLAN1199 does hereby **APPROVE** Category 3 Development Plan (as submitted on 10/23/17) for proposed conversion of an existing 34,422 sf. warehouse with fourth floor addition to have 25 residential dwelling units, based upon the Staff Report, the site plan, and the testimony heard today.

The vote was as follows:

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

02:58:34 On a motion by Vice Chair Jarboe (previously read into the record at Time Stamp **02:54:36**), seconded by Member Howard, the following resolution was adopted:

Variance #1 from LDC Section 5.2.2.C.2, Table 5.2.2 to allow a proposed fourth floor addition on an EZ-1 zoned parcel to exceed the maximum building height of 45 feet or three stories by approximately 20 feet:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect public health safety or welfare since the existing structure has a water with an overall height of 144 feet. Redevelopment of the building into residential units, will increase the integration of the structure into the existing neighborhood, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since adjacent buildings exceed the height of the proposed structure and the construction on the existing roof will not be visible from the street or sidewalk, and

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WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the redevelopment of this lot will convert an existing vacant building into residential dwellings which will be in line with the neighborhood and adjacent properties, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the existing structure prior to the proposal has above average floor to floor heights and the variance is to allow an additional story onto the existing building. The existing building is 57 feet tall and due to the building be constructed to the lot lines. The opportunity to increase height based on additional setback is not available, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the existing building with water tower atop will be reduce the overall height of the building with the 4th floor addition, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land or create an unnecessary hardship on the applicant since the ability to redevelop the property with residential units are required to make the project feasible, and

WHEREAS, the Board further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the existing building that was built in 1904 was used as a warehouse. The applicant is proposing to convert the warehouse into lofts with an additional floor that would accommodate 4 penthouse lofts with 21 other smaller dwellings, and

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

Variance #2 from LDC Section 5.2.2.C.2, Table 5.2.2 to allow a proposed fourth floor addition on an EZ-1 zoned parcel to encroach 15 feet into the minimum front yard (along East Kentucky Street) setback:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect public health safety or welfare since the existing 3 story warehouse building was built in the early 1900's and was built

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to the property line. The addition of the 4th floor is an extension of the existing building and will not adversely affect the public health, safety, or welfare, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the existing building is 144 feet tall with the water tower. The removal of the water tower and the addition of the fourth floor will make the overall building height 65 feet 4 inches tall. The height reduction along with building improvements will be more in character with the general vicinity, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the requested variance will help to eliminate a potential hazard or nuisance by removing the 87 foot tall water tower, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the existing building pre-dates any zoning regulations within the county and was built as most buildings were for that time up to the building line/sidewalks, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the existing building pre-dates any zoning regulations within the city and was built as most buildings were for that time up to the building line/sidewalks, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land or create an unnecessary hardship on the applicant since in order to redevelop the property with residential dwelling units are required to make the project feasible. The ability to gain additional height due to increasing setback are not a possible option on the existing building which is constructed to the lot lines, and

WHEREAS, the Board further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since this is an existing building that was originally constructed in 1904 and used as a warehouse. The applicant would like to convert the warehouse into lofts with an additional floor that would accommodate 4 penthouse lofts with patios, and

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

Variance #3 from LDC Section 5.2.2C.2, Table 5.2.2 to allow a proposed fourth floor addition on an EZ-1 zoned parcel to encroach 9.28 feet into the minimum side yard setback along the eastern property line and to allow the proposed parking to encroach 10 ft. into the western side yard setback:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect public health safety or welfare since the existing 3 story warehouse building was built in the early 1900's and was built to the property line. The addition of the 4th floor is an extension of the existing building and will not adversely affect the public health, safety, or welfare, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the existing building is 57 feet tall and has a water tower on the roof, making the overall height 144 feet tall. The addition of the fourth floor will make the overall building height 65 feet 4 inches tall. The height reduction along with building improvements will be more in character with the general vicinity, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the requested variance will help to eliminate a potential hazard or nuisance by removing the 87 foot tall water tower, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the existing building pre-dates any zoning regulations within the county and was built as most buildings were for that time up to the building line/sidewalks, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the existing building pre-dates any zoning regulations within the county and was built as most buildings were for that time up to the building line/sidewalks, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land or create an unnecessary hardship on the applicant since in order to redevelop the

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property with residential dwelling units are required to make the project feasible. The ability to gain additional height due to increasing setback are not a possible option on the existing building which is constructed to the lot lines, and

WHEREAS, the Board further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since this is an existing building that was originally constructed in 1904 and used as a warehouse. The applicant would like to convert the warehouse into lofts with an additional floor that would accommodate 4 penthouse lofts with patios, and

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

Variance #4 from LDC Section 5.2.2.C.2, Table 5.2.2 for an EZ-1 zoned parcel to allow two 9'x18' parking spaces and concrete ramp to encroach 15 feet into the minimum 15 foot rear yard setback adjacent to the 15' wide alley:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect public health safety or welfare since the two parking spaces will not adversely affect the public health, safety, or welfare as they will be serving a multi-family residence that is adjacent to single family residences and has parking in the rear via alleys, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the two parking spaces is predominantly residential properties that have parking in the rear of the residences with frontage along East Saint Catherine Street and the rear of the industrial building having frontage along East Kentucky Street off of the alley, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the requested variance to allow 2 parking spaces to encroach into the side yard and rear setback in the predominantly residentially zoned neighborhood has parking in the rear of the residences via the alley, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the residences

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surrounding the building in this neighborhood have parking as located to the rear of their residences via the alley, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the building was and is an existing warehouse as constructed in 1904, pre-dating the regulations and having access to the rear via the alley and R-6 zoned parcel being an ingress/egress easement. The additional parking is needed since the proposed use will be multi-family dwelling units and will accommodate the residents, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land or create an unnecessary hardship on the applicant since the site/parcel is small every effort has been taken to accommodate as many parking spaces as possible for all residents of the proposed multi-family residence. Any denial would result in hardship on the applicant resulting in the need for a parking waiver to reduce the minimum parking requirements by two spaces, and

WHEREAS, the Board further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the existing building was constructed in 1904 pre-dating the zoning regulations and is an integral to fulfilling the parking requirements as laid out by the Land Development Code, 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 17DEVPLAN1199 does hereby **APPROVE** Variance #1 from LDC Section 5.2.2.C.2, Table 5.2.2 to allow a proposed fourth floor addition on an EZ-1 zoned parcel to exceed the maximum building height of 45 feet or three stories by approximately 20 feet (**Requirement 45 ft. or Three Stories, Request 65.4 ft., Variance 20.4 ft.**), Variance #2 from LDC Section 5.2.2.C.2, Table 5.2.2 to allow a proposed fourth floor addition on an EZ-1 zoned parcel to encroach 15 feet into the minimum front yard (along East Kentucky Street) setback (**Requirement 15 ft., Request 0 ft., Variance 15 ft.**), Variance #3 from LDC Section 5.2.2.C.2, Table 5.2.2 to allow a proposed fourth floor addition on an EZ-1 zoned parcel to encroach 9.28 feet into the minimum side yard setback along the eastern property line and to allow the proposed parking to encroach 10 ft. into the

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western side yard setback (**Eastern Side Requirement 10 ft., Request .72 ft., Variance 9.28 ft.; Western Side Requirement 10 ft., Request 0 ft., Variance 10 ft.**), and Variance #4 from LDC Section 5.2.2.C.2, Table 5.2.2 for an EZ-1 zoned parcel to allow two 9'x18' parking spaces and concrete ramp to encroach 15 feet into the minimum 15 foot rear yard setback adjacent to the 15' wide alley (**Requirement 15 ft., Request 0 ft., Variance 15 ft.**), based upon the Staff Report, the applicant's justification, and the site plan.

The vote was as follows:

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

02:59:24 On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution was adopted:

Waiver #1 from LDC Section 10.2.10, Table 10.2.6 to not provide the required 5 foot VUA LBA along the rear of the EZ-1 zoned parcel adjacent to the 15 ft. wide alley:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since there is currently no landscaping at the rear of the property, the applicant is proposing to plant 4 trees around the 2 parking spaces. The adjacent property, R-6 zoned ingress/egress, to the south is used for access and does not have a building, the property to the west is Railroad Right of Way, and

WHEREAS, the Board further finds that the waiver will not violate Guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. Cornerstone 2020 encourages the revitalization of neighborhoods to include higher density residential uses as located within the Traditional Neighborhood Form District, 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 rear of the

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property will be the access to the below level parking and also the two parking spaces on the lot, and

WHEREAS, the Board further finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) since the applicant has added four trees around the two parking spaces which is three more trees than required in the Landscape buffer area. The applicant is also proposing to plant 6 trees on the adjacent R-6 zoned parcel that is used as an ingress/egress improving the overall site conditions from and to the proposed multi-family residential building, 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 17DEVPLAN1199 does hereby **APPROVE** Waiver from LDC Section 10.2.10, Table 10.2.6 to not provide the required 5 foot VUA LBA along the rear of the EZ-1 zoned parcel adjacent to the 15 ft. wide alley, based upon the Staff Report, the site plan, the applicant's justification and the testimony heard today.


The vote was as follows:

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

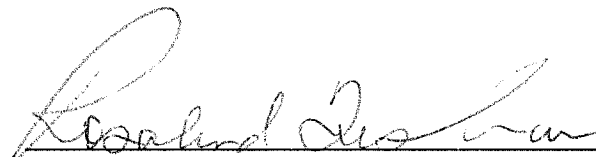
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ADJOURNMENT

The meeting adjourned at approximately 11:46 a.m.



Chair



Secretary