

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

**AUGUST 18, 2014**

A meeting of the Louisville Metro Board of Zoning Adjustment was held at 8:30 A.M. on Monday, August 18, 2014, 514 West Liberty Street, Old Jail Building, Old Jail Court Room, Louisville, Kentucky.

**Members present were:**

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

**Members absent:**

No one

**Staff members present were:**

Emily Liu, Director, Planning & Design Services  
John Carroll, Legal Counsel  
Steve Hendrix, Planning Supervisor  
Joe Reverman, Planning Supervisor  
Jon Crumbie, Planner II  
Latondra Yates, Planner II  
Regina Thomas, Associate Planner  
Beth Stevenson, Management Assistant

\*Member Allendorf arrived at 8:42 a.m. and Member Tharp left the meeting at approximately 11:15 a.m.

The following cases were heard:

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**APPROVAL OF MINUTES:**

**AUGUST 4, 2014 BOARD OF ZONING ADJUSTMENT MEETING MINUTES**

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

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on August 4, 2014.

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

**NO: No one.**

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

**ABSTAINING: Member Jarboe.**

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**AUGUST 18, 2014**

**BUSINESS SESSION**

**NON-HEARING CASE**

**CASE NO. 14VARIANCE1068**

**Request:** Variance from the Land Development Code to allow a structure to encroach into the required side yard.

**Project Name:** House Addition

**Location:** 2502 Hale Avenue

**Owner:** Lolita Lawson  
2502 Hale Avenue  
Louisville, KY 40210

**Applicant:** Same as owner

**Representative:** Jason Graves Land Surveying  
Jason Graves  
4302 Diamond Way  
Louisville, KY 40216

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT: 6—David James**

**Staff Case Manager: Regina Thomas, Associate Planner**

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 5<sup>th</sup> Street.)

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact customer service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the August 18, 2014 public hearing proceedings.**

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**BUSINESS SESSION**

**NON-HEARING CASE**

**CASE NO. 14VARIANCE1068**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan the evidence and discussion at the public hearing that the applicant is requesting a variance from the Land Development Code to allow the construction of a second floor addition to the existing home to encroach into the side yard; and

**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because Hale Avenue already has other two story homes with less than three feet of clearance between properties; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity since it will blend in with other homes in the area; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public because it will be compatible with the existing homes in the neighborhood; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because there are other similar homes in the area; and will comply with the current zoning regulations; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship because the current owners are not the original owners and the design and placement was common at the time of construction; and because any addition to the structure would result in acquiring a variance or not expanding the structure for additional needed living space; and

**WHEREAS**, the Board finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought because the current owners are not the original owners of the property that was already built prior to their purchase;

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**RESOLVED**, that the Board does hereby **GRANT** the variance to allow a proposed second floor addition to be .62 feet from the side property line; and

**BE IT FURTHER RESOLVED**, that this action be effective immediately.

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

**NO:** No one.

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

**ABSTAINING:** No one.

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**AUGUST 18, 2014**

**BUSINESS SESSION:**

**NON-HEARING CASE**

**CASE NO. 14VARIANCE1074**

**Request:** Variance from the Land Development Code to allow the construction of a proposed addition to the existing home.

**Project Name:** Home Addition

**Location:** 2202 Newmarket Drive

**Owners:** Robert J. & Kathy A. Benish  
2202 Newmarket Drive  
Louisville, KY 40222

**Applicants:** Same as owners

**Jurisdiction:** City of Northfield

**COUNCIL DISTRICT:** 16—Kelly Downard  
**Staff Case Manager:** Regina Thomas, Associate Planner

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 5<sup>th</sup> Street.)

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact customer service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the August 18, 2014 public hearing proceedings.**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of

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**NON-HEARING CASE**

**CASE NO. 14VARIANCE1074**

review requirements control over the additional considerations and the site plan at the public hearing that the applicant is requesting a variance from the Land Development Code to allow the construction of a proposed 200 sq. ft. addition to the existing home; and

**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the addition will blend with the existing house construction and materials; and will be setback far enough from the street that the existing foliage will screen from the street; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public because it will be set well back from the street and existing foliage prevents view from the street; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because only one front corner of the property will be affected; and

**WHEREAS**, the Board finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought because the owners are not responsible for the location of the existing home or the layout of the lot;

**NOW, THEREFORE, BE IT RESOLVED**, that the Board does hereby **GRANT** the variance to allow a proposed addition to be 5.39 feet from the south side property line; and

**BE IT FURTHER RESOLVED**, that this action be effective immediately.

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

**NO:** No one.

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

**ABSTAINING:** No one.

**MINUTES OF THE MEETING  
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**AUGUST 18, 2014**

**NEW BUSINESS:**

**CASE NO. 14CUP1011**

**Request:** Conditional Use Permit to allow a new, separate crematory building for cremations on the subject property in a CM zoning district.

**Project Name:** Newcomer Funeral Home Crematory

**Location:** 10304 Dixie Highway

**Owner:** Kentucky Funeral Services, LLC  
Michael Lane  
520 SW 27<sup>th</sup> Street  
Topeka, KS 66611

**Applicant:** Newcomer Funeral Service Group  
Darren Miller  
502 SW 27<sup>th</sup> Street  
Topeka, KS 66611

**Representative:** Bill Bardenwerper, Esq.  
Bardenwerper Talbott & Roberts  
1000 N. Hurstbourne Pkwy., 2<sup>nd</sup> floor  
Louisville, KY 40223

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 14—Cindi Fowler**  
**Staff Case Manager: Jon Crumbie, Planner II**  
**(CONTINUED FROM JULY 21, 2014)**

**Member Fishman recused herself at the previous hearing and did not participate in any deliberations today.**

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



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

**Agency Testimony:**

Staff case manager, Jon Crumbie discussed the case summary, standard of review and staff analysis from the staff report. He said this case was continued to allow more time for interested parties to submit information. Mr. Crumbie said he received numerous letters in opposition and petitions; and additional information from the applicant. He presented a PowerPoint presentation for the Board.

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

Bill Bardenwerper, Attorney.

Ren Newcomer, 502 SW 27<sup>th</sup> Street, Topeka, KS 66611.

Jason Hall, Prism Engineering & Design Group, 2300 Plantside Drive, Louisville, KY 40299.

Glen Lyle, American Crematory, 6017 Kipps Colony Drive East, Gulfport, FL 33707.

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

Bill Bardenwerper, the applicant's attorney, presented different options for the Board to choose considering the discussion at the original public hearing. The first option is to allow the crematory to be housed in the funeral home as submitted; the second alternative to house the crematory in the funeral home but move it to the north side of the building to increase the distance between the building and the nearest residential use; and the third is to build a new crematory building which would be the required 200 feet from the nearest residential use.

Ren Newcomer, the applicant, said he would prefer to construct the crematory as requested, but will go as far as constructing a separate building putting it 200 feet away from the residential properties.

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Jason Hall, the applicant's other representative, discussed proposed landscaping and screening to reduce noise from Dixie Highway and visual impacts. Glen Lyle with American Crematory, said the product he manufactures burns extremely clean. He said the opposition seemed mostly concerned about mercury emissions and said various soil tests have been done over the last 40 years and have proven to be innocuous.

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

Metro Councilwoman Cindi Fowler, 601 W. Jefferson Street, Louisville, KY 40202.

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

Metro Councilwoman Cindi Fowler, said although she remains a neutral party with regard to the request, she has received approximately 500 signatures of area residents opposed. She said she diligently tried to find information with regard to where the 200 ft. crematory setback came from and read some Planning Committee minutes from January 20, 2011 into the record. Ms. Fowler asked the Board to justify why the setback should not be adhered to; stating that the regulation notes that it should be setback "200 feet or more from adjacent residential uses".

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

Sheila Hays, 10301 LaPlaza Avenue, Louisville, KY 40272.

Marlene Turner, 10300 LaPlaza Avenue, Louisville, KY 40272.

Michael Bentley, 10312 LaPlaza Avenue, Louisville, KY 40272.

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

Sheila Hays said her backyard is adjacent to the subject property; and that the applicant has not proven there are no emissions. She is concerned for the health of people who live in the area; and trying to get businesses in the area that are more appropriate for the existing residential.

Marlene Turner said the applicant has only submitted information on a calibrated furnace test; and has still not proven there are no toxic emissions. She said no toxic tests are done because they are not required. Ms. Turner said, The Cremation Association of North America (CANA) Mr. Bardenwerper discussed

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would be biased since they are in the cremation business; and that the EPA states otherwise. She suggested changing the 200 ft. setback requirement from residential uses to 1,000 feet.

Michael Bentley discussed the revised combustion test and said this is only to make sure the crematorium is burning properly; and that the smoke stack test doesn't measure each pollutant. He said crematoriums should only be allowed in industrial zones like the others that are in Jefferson County. He said other states keep crematory setbacks are from 500 to 1,000 feet and are only allowed in industrial zones.

**Rebuttal:**

Mr. Bardenwerper said his client will respect the 200 ft. setback with Option 3 as previously discussed. He said the current requirements in the Land Development Code would need to be amended through the Planning Commission with Metro Council approval.

**Deliberation:**

Member Bergmann said he is still concerned with the visual impacts for the neighbors; but would agree with Option 3. Member Jarboe said she is still unsure about potential hazards involved, but would also agree to Option 3 with increased landscaping near the residential areas. Chair Proffitt asked Mr. Bardenwerper about the landscaping.

**Back into Public Hearing:**

Mr. Bardenwerper agreed to include extensive landscaping to the north, south and west property lines for visual and noise buffers.

**Back into Business Session:**

Member Allendorf also agreed with Option 3, and said he thinks grilling creates more emissions than a crematorium. Chair Proffitt said he researched the issue on the internet and found that the mercury and other toxins are so minimal, that the EPA doesn't regulate it. Chair Proffitt said he doesn't think it will decrease property values either, because most people won't know it's there. He said he thinks Option 2 would be less visible, but would also go along with Option 3.

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Mr. Crumbie said if the Board chooses Option 3 that Item B would not need to be modified. He said the Board should include any other conditions of approval they feel necessary.

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**Conditional Use Permit to allow a crematory addition in a CM zoning district:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review, the site plan; a revised landscape plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a Conditional Use Permit to allow a new, separate crematory building for cremations on the subject property in a CM zoning district; and

**WHEREAS**, the Board finds that the subject property is within a Suburban Marketplace Corridor Form District; and

**WHEREAS**, the Board finds that the proposal is consistent with the applicable policies of the Comprehensive Plan because additional landscaping will be planted to the north, south and west property lines to buffer the residential areas from visual nuisances; and noise from Dixie Highway; and because no new lighting or signage is proposed; and

**WHEREAS**, the Board finds that the proposal complies with Compatibility Guideline 3, because this allows for a mixture of land uses as long as they are designed to be compatible with each other and, in the process, to preserve the character of existing neighborhoods; and because the Newcomer Funeral Home is already residential in character; it is only one story, not two-stories like other

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residences in this area; so it is even shorter than the maximum height allowed in the nearby residential zoning districts; as such, it preserves the character of the existing neighborhood by not detracting from it aesthetically or in terms of building design and materials; and because the applicant has agreed to incorporate extensive landscaping along the north, south and west property lines to conceal the new, separate crematory building and the funeral home in general; and

**WHEREAS**, the Board finds that the proposal complies with Policies 1, 2, 3 and 4 of the Compatibility Guideline 3, to address compatibility with regard to design, building materials, types of uses, including buffers, open space, landscaping and so on because the Newcomer Funeral Home building is very nice looking brick building and will be pleasantly landscaped to the north, south and west property lines; and because the applicant added slats to the fencing requested by the neighbors for further concealment; and

**WHEREAS**, the Board finds that necessary public facilities (both on and off site) such as transportation, sanitation, water, sewer, drainage, emergency services etc. because the proposal has been reviewed and preliminarily approved by the Louisville Metro Transportation Department and the Metropolitan Sewer District; and

**WHEREAS**, the Board finds that the proposal complies with the specific requirements for a crematory with a Conditional Use Permit because a permit is not required from the Air Pollution Control District; and because the applicant has agreed to build a separate, new crematory building which will be at least 200 feet away from residential properties;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow a crematory addition to an existing funeral home in a CM zoning district on the site **SUBJECT** to the following Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.

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2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a crematory without further review and approval by the Board.
3. The applicant will submit a revised landscape plan to staff for review and approval incorporating landscaping along the north, south and west property lines for noise reduction coming from Dixie Highway; and a visual buffer for the residential properties.
4. The applicant will construct a new crematory building for cremations on the subject property which will be located 200 feet away from the nearest residential use as depicted under Tab 1, Option #3 in the applicant's exhibit book dated August 18, 2014.

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

**NO: No one.**

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

**ABSTAINING: No one.**

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**AUGUST 18, 2014**

**NEW BUSINESS:**

**CASE NO. 14VARIANCE1070**

**Request:** Variances from the Land Development Code to allow proposed structures to exceed the maximum 25-ft. front yard setback.

**Project Name:** Creek View Estates

**Location:** 9100, 9101, 9102 & 9104 Blue Boulder Court

**Owner:** Dominion Homes of Kentucky, LTD  
Jarrod Vowels, Land Manager  
10035 Forest Green Blvd.  
Louisville, KY 40223

**Applicant:** Same as owner

**Representative:** Mindel Scott & Associates, Inc.  
Kathy Linares  
5151 Jefferson Blvd., Suite 101  
Louisville, KY 40219

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 22—Robin Engel**

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

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

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

**Agency Testimony:**

Staff Case Manager, Jon Crumbie discussed the case summary, standard of review and staff analysis from the staff report. He said the proposal will increase

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**CASE NO. 14VARIANCE1070**

the number of buildable lots from 85 to 105; and will increase the amount of open space. Mr. Crumbie submitted a letter into the record and for the Board to review.

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

Kathy Linares with Mindel Scott & Associates.

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

Kathy Linares, the applicant's representative, said the Development Review Committee approved this as a conservation subdivision and that they need 4 variances to exceed the maximum 25-ft. front yard setback to 30 feet. She said she does not anticipate needing anymore variances.

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

No one.

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

No one.

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

No one.

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

No one.

**Deliberation:**

Board of Zoning Adjustment deliberation.

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



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**CASE NO. 14VARIANCE1070**

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the applicant's justification, the evidence, testimony and discussion at the public hearing that the applicant is requesting four variances from the Land Development Code to allow proposed structures to exceed the maximum 25-ft. front yard setback to 30 feet; and

**WHEREAS**, the Board finds that the variances will not adversely affect the public health, safety or welfare because the structures will be located on four of the biggest lots in the subdivision and all other yard requirements will be met; and

**WHEREAS**, the Board finds that the variances will not alter the essential character of the general vicinity because the structures will be compatible with the surrounding residential neighborhood; and

**WHEREAS**, the Board finds that the variances will not cause a hazard or nuisance to the public because the encroachments will not be noticeable from the street and will not create a problem for motorists or pedestrians; and

**WHEREAS**, the Board finds that the variances will not allow an unreasonable circumvention of the zoning regulations because the lots will still have ample front and rear yards; and

**WHEREAS**, the Board finds that the variances arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the conservation subdivision standards require a minimum front yard setback of 15 feet and a maximum front yard setback of 25 feet, otherwise, the maximum front yard setback would be 30 feet; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the request is only for an additional 5' on these lots located on a cul-de-sac; and since the change wouldn't be noticeable without measuring; and because the request is typical for similar lots in a standard subdivision due to their shape; and

**WHEREAS**, the Board finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation from which

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relief is sought because a larger building setback on cul-de-sac lots is a practice which pre-existed the current regulations;

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

**The variances allow:**

1. Proposed structure on Lot 52 to be 30 feet from the front property line along Blue Boulder Court.
2. Proposed structure on Lot 53 to be 30 feet from the front property line along Blue Boulder Court.
3. Proposed structure on Lot 54 to be 30 feet from the front property line along Blue Boulder Court.
4. Proposed structure on Lot 55 to be 30 feet from the front property line along Blue Boulder Court.

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

**NO: Member Jarboe.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: No one.**

**ABSTAINING: No one.**

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**AUGUST 18, 2014**

**NEW BUSINESS:**

**CASE NO. 14VARIANCE1064**

**Request:** Variance from the Land Development Code to allow a private yard reduction; and waivers for an existing accessory structure.

**Location:** 1214 Lillian Avenue

**Owner:** Dennis Mattingly  
3733 Cande Lane  
Louisville, KY 40207

**Applicant:** Santos Pastor Pineda  
1324 Thornberry Avenue  
Louisville, KY 40215

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 6—David James**

**Staff Case Manager: Latondra Yates, Planner II**

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

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

**Agency Testimony:**

Staff Case Manager, Latondra Yates discussed the case summary, standard of review and staff analysis from the staff report. She said the applicant is requesting a variance and two waivers for a garage addition; and that the applicant has been cited for constructing the addition without a permit. Ms. Yates said she also received a complaint that the garage is being used as a furniture and appliance business.

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

Santos Pastor Pineda.

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

Santos Pineda, the applicant, said someone else built the garage for him and that he didn't know he needed a permit. He said the garage is used for storage.

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

No one.

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

No one.

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

No one.

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

No one.

**Deliberation:**

The Board wanted to add conditions of approval that the applicant receive a building permit; and that the exterior materials be compatible with the existing structures (vinyl siding).

**Back into Public Hearing:**

Chair Proffitt asked the applicant if he would add vinyl siding to the entire garage. Mr. Pineda agreed.

**Back into Deliberation:**

John Carroll, the Board's legal counsel, said to add a condition of approval that no business be conducted in the garage.

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**NEW BUSINESS:**

**CASE NO. 14VARIANCE1064**

**Variance to allow a reduction in the required 20% private yard:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the applicant's justification; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a variance of Section 5.4.1.D.3 of the Land Development Code to allow a reduction in the required 20% private yard; and

**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because at least half of the private yard will be provided; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity because the structure will be an improvement to the property; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public because at least half of the private yard will be provided; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because at least half of the private yard will be provided; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the structure is existing;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow the private yard area to be 540 square feet.

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**AUGUST 18, 2014**

**NEW BUSINESS:**

**CASE NO. 14VARIANCE1064**

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

**NO: No one.**

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

**ABSTAINING: No one.**

**Waivers to allow the length of the accessory structure to exceed 50 feet in depth; and to allow the accessory structure to exceed the footprint of the principal structure:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review the site plan; the applicant's justification; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a waiver of Section 5.4.1.E.1 of the Land Development Code to allow the length of the accessory structure to exceed 50 feet in depth; and a waiver from Section 5.4.1.C.2 of the Land Development Code to allow the accessory structure to exceed the footprint of the principal structure; and

**WHEREAS**, the Board finds that the requested waivers will not adversely affect adjacent property owners because the structure appears to be situated in a manner that will not impede sight distance or negatively affect the view of neighboring properties; and

**WHEREAS**, the Board finds that the waivers will not violate specific guidelines of the Cornerstone 2020; and

**WHEREAS**, the Board finds that the waivers are the minimum necessary to afford relief to the applicant because the garage has already been built; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship because the garage has already been constructed; and because additional space is needed for storage;

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**AUGUST 18, 2014**

**NEW BUSINESS:**

**CASE NO. 14VARIANCE1064**

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waivers **ON CONDITION**:

1. The entire façade be covered with vinyl siding.
2. No business activities shall take place in the garage.

**The waivers allow:**

1. The length of the accessory structure to exceed 50 feet in depth.
2. The accessory structure to exceed the footprint of the principal structure, specifically, 1,080 square feet.

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

**NO:** No one.

**NOT PRESENT FOR THIS CASE AND NOT VOTING:** No one.

**ABSTAINING:** Member Liggin.

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

**AUGUST 18, 2014**

**NEW BUSINESS:**

**CASE NO. 14VARIANCE1073**

**Request:** Variances to allow proposed attached signage to exceed the maximum height.

**Project Name:** Kentucky One Health Signage

**Location:** 3920 Dutchmans Lane

**Owner:** Jewish Hospital & St. Marys HE  
Liz Sword & Brent Eads  
3920 Dutchmans Lane  
Louisville, KY 40207

**Applicant:** Same as owner

**Representatives:** Bradley Gendel, Patrick Huyge & Brent Eads  
6001 Nimitz Parkway  
South Bend, IN 46628

**Jurisdiction:** St. Matthews

**COUNCIL DISTRICT 26—Brent Ackerson**  
**Staff Case Manager:** Latondra Yates, Planner II

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

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

**Agency Testimony:**

Staff Case Manager, Latondra Yates discussed the case summary, standard of review and staff analysis from the staff report. She said the applicant is requesting 6 variances to allow attached signage to exceed the maximum height.



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**NEW BUSINESS:**

**CASE NO. 14VARIANCE1073**

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

Brent Eads, 6001 Nimitz Parkway, South Bend, IN 46628.

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

Brent Eads said the signage will allow for greater visibility for people to find the facility. He said the signs will be backlit.

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

No one.

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

No one.

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

No one.

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

No one.

**Deliberation:**

Board of Zoning Adjustment deliberation.

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the August 18, 2014 public hearing proceedings.**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting 6 variances of Article 11.D.2.C of the

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**AUGUST 18, 2014**

**NEW BUSINESS:**

**CASE NO. 14VARIANCE1073**

Development Code (old code) to allow attached signage to exceed the maximum heights; and

**WHEREAS**, the Board finds that the requested variances will not adversely affect the public health, safety or welfare because of the placement of the signage and the location of the building away from the expressway; and because the signs will not be backlit but should not negatively impact adjacent properties; and

**WHEREAS**, the Board finds that the variances will not alter the essential character of the general vicinity because they will be replacing signage of similar sizes in mostly the same locations; and

**WHEREAS**, the Board finds that the variances will not cause a hazard or nuisance to the public because the signage appears to be directed toward the commercial frontage of Dutchmans Lane and Breckinridge Lane in an existing commercial area and medical campus; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because it will be similar in size to what already exists; and

**WHEREAS**, the Board finds that the variances arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the subject property is unique to the area based on the type of use that it houses as well as the size of the property in general; and because the majority of the properties in the immediate area are single story single occupancy tenants or buildings with a single ingress/egress into the building; and because the facility is unique because there are multiple points of access into the building, on multiple elevations of the building; and because this unique situation requires that visible signage is present in order to adequately identify this property; and because other businesses in the area do not have this type of issue at their properties; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship because there is already existing signage of similar size; and the signage will help better identify the building in a dense commercial/medical office area;

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**NEW BUSINESS:**

**CASE NO. 14VARIANCE1073**

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

**The variances allow:**

1. The attached sign (Sign 01) along the northeast side of the building to be 30 inches tall.
2. The attached sign (Sign 03) along the northeast side of the building to be 24 inches tall.
3. The attached sign (Sign 05) along the southwest side of the building to be 30 inches tall.
4. The attached sign (Sign 07) along the southwest side of the building to be 24 inches tall.
5. The attached sign (Sign 09) along the southeast side of the building to be 30 inches tall.
6. The attached sign (Sign 10) along the southeast side of the building to be 24 inches tall.

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

**NO: No one.**

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

**ABSTAINING: No one.**

**MINUTES OF THE MEETING  
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**AUGUST 18, 2014**

**NEW BUSINESS:**

**CASE NO. 14VARIANCE1069**

**Request:** Variance from the Land Development Code to allow a proposed addition to encroach into the required infill street side yard along West Chamberry Drive.

**Project Name:** House Addition

**Location:** 3216 Rock Creek Drive

**Owners:** Francis & Alice Fensterer, III  
3216 Rock Creek Drive  
Louisville, KY 40207

**Applicant:** Same as owners

**Representatives:** Logsdon Surveying  
Mick Logsdon  
1948 Gardiner Lane  
Louisville, KY 40205

John Everage, Contractor  
804 E. 8<sup>th</sup> Street  
Jeffersonville, IN 47130

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT** 9—Tina Ward-Pugh  
**Staff Case Manager:** Sherie' Long, presented by Jon Crumbie

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

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

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**NEW BUSINESS:**

**CASE NO. 14VARIANCE1069**

**Agency Testimony:**

Staff Case Manager, Jon Crumbie discussed the case summary, standard of review and staff analysis from the staff report and the infill standards. He stated that the minimum street side setback would be the same as the nearest principal structure which was 40 feet. He noted that the request was for 33.05 feet.

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

Mick Logsdon.

John Everage.

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

Mick Logsdon, the applicant's representative, stated the location for the addition and that it would be buffered by existing trees.

John Everage, the applicant's contractor, explained the design of the addition and said he might have to remove some of the bushes in the front yard, but all other landscaping will remain. He said he will use vinyl siding that will match the existing vinyl.

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

Nathan Smith, Part Studio, LLC, 711 Brent Street, Louisville, KY 40204.

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

Nathan Smith said he didn't think enough information was provided.

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

No one.

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

No one.

**Deliberation:**

Member Bergmann said he would have liked to see a landscape plan.

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**CASE NO. 14VARIANCE1069**

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the August 18, 2014 public hearing proceedings.**

**Variance to allow a proposed addition to encroach into the required infill street side yard:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant's justification, the evidence, testimony and discussion at the public hearing that the applicant is requesting a variance from the Land Development Code, Section 5.3.1.C.1 (a)(i) to allow a proposed addition to encroach into the required infill street side yard along Chamberry Drive; and

**WHEREAS**, the Board finds that the variance will not adversely affect the public health, safety or welfare because the proposed addition will be more than 33 feet from the property line; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity because the proposed structure will be constructed with materials which are compatible with the existing structure and existing trees will reduce the impact of the encroachment; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public because the proposed addition will be more than 33 feet from the property line; and two large trees are to remain, thus reducing the impact; and

**WHEREAS**, the Board finds that the variance does not allow an unreasonable circumvention of the zoning regulations because the proposed 78 square foot addition is on the side of the house and is only encroaching into a small portion of the street side yard; and

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**NEW BUSINESS:**

**CASE NO. 14VARIANCE1069**

**WHEREAS**, the Board finds that the variance arises from special circumstances which do generally apply to land in the general vicinity or the same zone because this is a corner lot; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since over half of the lot is restricted by the front and street side yard setbacks; and

**WHEREAS**, the Board finds that the circumstances are not the result of actions of the applicant subsequent to the adoption of the zoning regulations from which relief is sought, but are due to the location of the house and the being on a corner lot.

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow a proposed addition to be located 33.05 feet from the west property line along Chamberry Drive; a variance of 6.95 feet.

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

**NO: No one.**

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

**ABSTAINING: No one.**

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**AUGUST 18, 2014**

**NEW BUSINESS:**

**CASE NO. 14VARIANCE1071**

**Request:** A variance from the Land Development Code to allow an existing two-story addition to encroach into the required side yard.

**Project Name:** Residential

**Location:** 212 Pope Street

**Owner:** Melissa Doggett, More Properties LLC  
12417 Oakland Hills Trail  
Louisville, KY 40291

**Applicant:** Same as owner

**Representative:** Pat Crick , JPC Builders  
315 Tex Avenue  
Fairdale, KY 40118

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 9 –Tina Ward-Pugh**

**Staff Case Manager: Sherie' Long, presented by Latondra Yates**

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

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

**Agency Testimony:**

Staff Case Manager, Latondra Yates discussed the case summary, standard of review and staff analysis from the staff report. She stated that the applicant was seeking approval "after the fact" and that the addition was on the rear of a shotgun style house with a camelback two story addition.



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**NEW BUSINESS:**

**CASE NO. 14VARIANCE1071**

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

Melissa Doggett.

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

Melissa Doggett explained the status of the house and the variance request.

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

No one.

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

None.

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

No one.

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

None.

**Deliberation:**

**Board of Zoning Adjustment deliberation.**

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the August 18, 2014 public hearing proceedings.

**Variance to allow an existing two-story addition to encroach into the required side yard:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public

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**NEW BUSINESS:**

**CASE NO. 14VARIANCE1071**

hearing that the applicant is requesting a variance to allow approval of an existing two-story rear addition to encroach into the required side yard; and

**WHEREAS**, the Board finds that the variance will not adversely affect the public health, safety or welfare because the addition is in the rear of the property; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity because the structure is constructed with materials which are compatible with the surrounding structures and continues the existing setback; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public because the addition is located in the rear and at the same setback as the existing house; and

**WHEREAS**, the Board finds that the variance does not allow an unreasonable circumvention of the zoning regulations because the addition is located in the rear and at the same setback as the existing house; and

**WHEREAS**, the Board finds that the variance arises from special circumstances which do generally apply to land in the general vicinity since this is such a narrow lot; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, since it would require the existing addition to be removed or reduced in width; and

**WHEREAS**, the Board finds that the circumstances are not the result of actions of the applicant subsequent to the adoption of the zoning regulations from which relief is sought, since the current owner purchased the property with the addition already constructed.

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow an existing two-story addition to be 6 inches from the south side property line; a variance of 2'6".

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**NEW BUSINESS:**

**CASE NO. 14VARIANCE1071**

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

**NO: Member Jarboe.**

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

**ABSTAINING: No one.**

**MINUTES OF THE MEETING  
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**AUGUST 18, 2014**

**NEW BUSINESS:**

**CASE NO. 14VARIANCE1072**

**Request:** Variance from the Land Development Code to allow a two-story addition to encroach into the required side yard.

**Project Name:** Residential Addition

**Location:** 2045 Alta Avenue

**Owners:** Nathan Cole and Eleanor B. Peterson  
2045 Alta Avenue  
Louisville, KY 40205

**Representative:** Nathan Smith, Part Studio LLC  
711 Brent Street  
Louisville, KY 40204

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 8—Tom Owen**

**Staff Case Manager:** Sherie' Long, presented by Steve Hendrix

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

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

**Agency Testimony:**

Staff Case Manager, Steve Hendrix discussed the case summary, standard of review and staff analysis from the staff report. He said approval of the variance will allow an enlargement of the kitchen on the first floor and an additional bedroom on the second floor.

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

Nathan Smith.

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**NEW BUSINESS:**

**CASE NO. 14VARIANCE1072**

Nathan Cole.

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

Nathan Smith, the applicant's representative, discussed the proposal along with the existing conditions of the house and the overhangs.

Nathan Cole, the owner, was sworn in but didn't testify.

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

No one.

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

None.

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

No one.

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

None.

**Deliberation:**

Board of Zoning Adjustment deliberation.

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the August 18, 2014 public hearing proceedings.**

**Variance to allow a two-story addition to encroach into the north side yard:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public

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**NEW BUSINESS:**

**CASE NO. 14VARIANCE1072**

hearing that the applicant is requesting a variance from the Land Development Code, Section 5.4.1.C.6(b) to allow a proposed two story addition to encroach into the required north side yard; and

**WHEREAS**, the Board finds that the variance will not adversely affect the public health, safety or welfare because the addition is in the rear of the property and the northern wall will meet the fire-rated construction requirements; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity because the structure is constructed with materials which are compatible with the surrounding structures and continues the existing setback; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public because the addition is located in the rear and at the same setback as the existing house; and

**WHEREAS**, the Board finds that the variance does not allow an unreasonable circumvention of the zoning regulations because the addition is located in the rear and at the same setback as the existing house; and

**WHEREAS**, the Board finds that the variance arises from special circumstances which do generally apply to land in the general vicinity since this is such a narrow lot; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, since it would not allow the proposed addition to be built; and

**WHEREAS**, the Board finds that the circumstances are not the result of actions of the applicant subsequent to the adoption of the zoning regulations from which relief is sought, since the location and the house and the size of the lot were existing conditions;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow a two story addition to be 2 feet 1 inch from the north side property line; a variance of 11 inches.

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**NEW BUSINESS:**

**CASE NO. 14VARIANCE1072**

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

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Tharp**

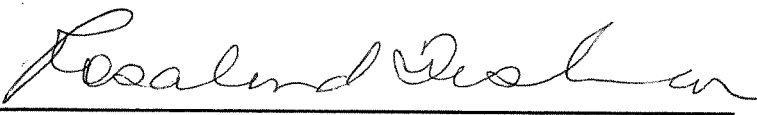
**ABSTAINING: No one.**

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The meeting adjourned at 12:15 p.m.

  
\_\_\_\_\_  
CHAIRPERSON

  
\_\_\_\_\_  
SECRETARY