

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

August 7, 2023

A meeting of the Louisville Metro Board of Zoning Adjustment was held on Monday, August 7, 2023, at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky, and also via Webex.

Members Present:

Sharon Bond, Chair
Richard Buttorff, Vice Chair
Brandt Ford
Jan Horton
Yani Vozos
Lula Howard

Members Absent:

Kimberly Leanhart

Staff Members Present:

Brian Davis, Assistant Director
Joel Dock, Planning & Design Supervisor
Joe Haberman, Planning & Design Manager
Travis Fiechter, Legal Counsel
Mary Willis, Management Assistant
Amy Brooks, Planner I
Molly Clark, Planner II
Dante St. Germain, Planner II
John Michael Lawler, Planner I
Jay Lockett, Planner II

The following cases were heard:

**BOARD OF ZONING ADJUSTMENT
MEETING MINUTES**

August 7, 2023

July 24, 2023, Board of Zoning Adjustment Meeting Minutes

00:04:35 On a motion by Member Ford, seconded by Member Horton, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the July 24th, 2023, Board of Zoning Adjustment meeting.

The vote was as follows:

YES: Members Horton, Ford, Vice Chair Butorff, and Chair Bond

ABSTAIN: Members Howard and Vozos

ABSENT: Member Leanhart

**BOARD OF ZONING ADJUSTMENT
MEETING MINUTES**

August 7, 2023

Public Hearing

Case No. 22-APPEAL-0014

Request: Appeal of an administrative decision regarding nonconforming rights – Continues from June 26, 2023, Meeting
Project Name: Atterberry Court Appeal
Location: 4607 Atterberry Ct
Owner: Prospect Construction, LLC
Applicant: Tom Sanders
Jurisdiction: City of Shively
Council District: 3 – Kumar Rashad
Case Manager: Joeseph 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:

00:05:34 Legal Counsel Travis Fiechter stated that due to multiple issues the case would need to be continued (see video)

The following spoke in support of the request:

None

The following spoke in opposition to the request:

None

00:07:00 Board Members' discussion

**BOARD OF ZONING ADJUSTMENT
MEETING MINUTES**

August 7, 2023

Public Hearing

Case No. 22-APPEAL-0014

00:07:02 On a motion by Member Howard, seconded by Member Ford, the following resolution, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** the requested Appeal of an administrative decision regarding nonconforming rights for a 4-plex in the R-5 zoning district to the November 20, 2023, BOZA Meeting.

The vote was as follows:

YES: Members Horton, Vozos, Howard, Ford, Vice Chair Buttorff and Chair Bond

ABSENT: Member Leanhart

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PUBLIC HEARING

Case No. 22-VARIANCE-0106

Request: Variances for street side yard and rear yard setbacks
Project Name: Westport Road Market
Location: 4630 Westport Rd, Parcel ID 035100090000,
035100530000, 035100020000, 035100540000,
035100550000
Owner: Choi Enterprises LLC
Applicant: Choi Enterprises LLC
Representative: Land Design & Development
Jurisdiction: City of St. Matthews
Council District: 7 – Paula McCraney
Case Manager: Dante St. Germain, AICP, Planner II

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

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

Agency testimony:

00:08:04 Dante St. Germain presented the case and showed a Power Point presentation. St. Germain responded to questions from the Board members (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

Ted Bernstein, Land Design & Development, 503 Washburn Ave, Louisville, KY 40222

Robert Wang, Gant Hill Associates, 10300 Linn Station Rd Ste 300, Louisville, KY 40223

Summary of testimony of those in support:

00:12:05 Ted Bernstein spoke in support of the request and presented a PowerPoint presentation. Bernstein responded to questions from Board Members (see recording for detailed presentation)

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Case No. 22-VARIANCE-0106

00:17:42 Robert Wang spoke in support of the request. Wang stated the owner is wanting to expand his business that he has been running for 25+ years.

The following spoke in opposition to the request:
None

00:19:22 Board Members' discussion

Variance from City of St. Matthews Development Code Section 6.1.C.2.e to permit parking, vehicular use area, and a dumpster enclosure to encroach into a required 25' property perimeter setback (required 25', requested 5', variance of 20')

00:19:42 On a motion by Member Howard, seconded by Member Vozos, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the requested variance will not adversely affect the public health, safety or welfare, because the structure will comply with all applicable building codes and the Development Code, except where relief is requested. The proposed encroachment will not impact vision clearance for vehicular traffic maneuvering along Washburn Avenue, and

WHEREAS, the essential character of the general vicinity is residential. The site is zoned C-N and a low-intensity commercial use is proposed on the site. The applicant will provide an adequate VUA LBA to screen the proposed parking and dumpster enclosure, and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public because the encroachment will not hinder the safe movement of vehicles or pedestrians, and

WHEREAS, The requested variance will not allow an unreasonable circumvention of the zoning regulations, as the site is located on a corner and a "corner commercial" type of development is proposed within a low-intensity commercial zoning district. The City of St. Matthews Development Code requires a full residential setback be provided along the area of encroachment, which, if provided in full, would seriously hinder the development of the site for any purpose, and

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Case No. 22-VARIANCE-0106

WHEREAS, the requested variance arises from special circumstances which do generally apply to the land in the generally vicinity or the same zone as the lot is zoned commercially but a residential setback is required, and

WHEREAS, 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 as the provision of the full required setback would make the lot virtually impossible to develop for commercial purposes, as it is zoned, and

WHEREAS, 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 has not started construction and is requesting the variance; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Variance from City of St. Matthew Development Code Section 6.1.C.2.e to permit parking, vehicular use area, and a dumpster enclosure to encroach into a required 25' property perimeter setback (**Required 25', Requested 5', Variance of 20'**)

The vote was as follows:

YES: Members Horton, Vozos, Howard, Ford, Vice Chair Buttorff and Chair Bond
ABSENT: Member Leanhart

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PUBLIC HEARING

Case No. 23-CUP-0218

Request: Conditional Use Permit for a Community Service Facility,
Category 3 Development Plan with a Waiver
Project Name: Haven Ministries
Location: 2507 Bank St.
Owner: Haven Ministries
Applicant: Haven Ministries
Jurisdiction: Louisville Metro
Council District: 5 – Donna Purvis
Presenter Jay Lockett, AICP, Planner II

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

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

Agency testimony:

00:21:32 Jay Lockett, presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

Esther Lyon, 2415 Portland Ave, Louisville, KY 40212

Ashley Bartley, QK4, 9920 Corporate Campus Dr, Louisville, KY 40223

Summary of testimony of those in support:

00:25:17 Ashley Bartley spoke in support of the request and presented a PowerPoint presentation. Bartley stated she would like Esther Lyon to speak first on the project and she would finish out the presentation.

00:25:56 Esther Lyon spoke in support of the request and presented a PowerPoint presentation. Lyon stated she was the founder of The Haven Ministries and obtained a bar which was turned into a coffee shop. Lyon mentioned that overtime there were a lot

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Case No. 23-CUP-0218

of individuals that were homeless or had an addiction that were needing ministry, which is why the building is needed

00:27:34 Ashley Barley continued the presentation and responded to questions from Board Members (see recording for detailed presentation)

00:31:15 Esther Lyon responded to questions from Board Members (see recording for detailed presentation)

The following spoke in opposition of the request:

None

00:34:28 Board Members' deliberation

Conditional Use Permit to construct a Community Service Facility in the UN zoning district per Land Development Code section 4.2.54

00:35:35 On a motion by Member Horton, seconded by Member Howard, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the proposal meets all applicable policies of the Comprehensive Plan, and

WHEREAS, when appropriately managed, the proposed use is compatible with surrounding development and land uses, and

WHEREAS, the subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed the proposal, and

WHEREAS, the proposal complies with the standards of the CUP (LDC 4.2.54); now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Conditional Use Permit to construct a Community Service Facility in the UN zoning district per Land Development Code section 4.2.54 **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 community service facility until further review and approval by the Board.

The vote was as follows:

YES: Members Horton, Vozos, Howard, Ford, Vice Chair Buttorff and Chair Bond
ABSENT: Member Leanhart

Waiver (23-WAIVER-0078) to not provide the property perimeter landscape buffer area between the CR and UN zones internal to the subject site.

00:37:40 On a motion by Member Horton, seconded by Member Ford, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the waiver will not adversely affect adjacent property owners. The required buffer area is internal to the parking and maneuvering area for the site, and all required buffering and screening will be provided adjacent to residential properties, and

WHEREAS, the waiver will not violate the Comprehensive Plan, as the parking area is existing, and the buffer requirement is internal to the subject site. The development will be in keeping with the general pattern of the area and the encroachment allows for a reasonable expansion of the subject site. All required planting and screening will be provided around the subject site adjacent to residential uses and roadways, and

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant, and

WHEREAS, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as the buffer is internal to the existing parking area of the site; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Waiver (23-WAIVER-0078) to not provide the property perimeter landscape buffer area between the CR and UN zones internal to the subject site.

The vote was as follows:

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YES: Members Horton, Vozos, Howard, Ford, Vice Chair Buttorff and Chair Bond
ABSENT: Member Leanhart

Category 3 Development Plan (22-CAT3-0012)

00:39:16 On a motion by Member Ford, seconded by Member Howard, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Category 3 Development Plan.

The vote was as follows:

YES: Members Horton, Vozos, Howard, Ford, Vice Chair Buttorff and Chair Bond
ABSENT: Member Leanhart

**BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

Case No. 23-VARIANCE-0050

Request: Variance to allow a structure to encroach into the required side yard setback
Project Name: Shawnee Terrace Variance
Location: 239 S Shawnee Terrace
Owner: Tiara Thomas
Applicant: Tiara Thomas
Jurisdiction: Louisville Metro
Council District: 5- Donna Purvis
Case Manager: Amy Brooks, 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:

00:42:07 Amy Brooks presented the case and showed a Power Point presentation. Brooks responded to questions from Board Members (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

Tiara Thomas, 239 S. Shawnee Terrace, Louisville, KY 40212

Summary of testimony of those in support:

00:45:59 Tiara Thomas spoke in support of the request and responded to questions from Board Members (see recording for detailed presentation)

The following spoke in opposition to the request:

None

00:47:26 Board Members' deliberation

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PUBLIC HEARING

Case No. 23-VARIANCE-0050

Variance from the Land Development Code Table 5.2.2 to allow a primary structure to encroach into the side yard setbacks

00:48:02 On a motion by Member Howard, seconded by Vice Chair Buttorff, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all applicable building codes and the Land Development Code, except where relief is requested. However, staff is concerned that the variance could adversely affect the adjacent property owner because construction and maintenance of the structure may require encroachment onto the neighboring property, and

WHEREAS, the addition will be built in an area where minimal setbacks from side property lines are commonplace because of the compacted urban lots. In fact, the addition will not be visible from the public street as the addition will follow the line of the current home, and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes, and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations since the proposed request seems compatible with the established pattern of setbacks within the surrounding neighborhood. Neighborhood examples that seemingly encroach into side yard setback include 241, 243, and 245 South Shawnee Terrace. The aerial photography of these examples has been included in the staff report's site photos, and

WHEREAS, the requested variance does not arise from special circumstances which do generally apply to the land in the general vicinity or the same zone as the lot is similar in size and shape to the surrounding properties, and

WHEREAS, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the existing house is within the required side yard setback line, and

WHEREAS, 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

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Case No. 23-VARIANCE-0050

applicant is requesting the variance and has not begun construction; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from the Land Development Code Table 5.2.2 to allow a primary structure to encroach into the side yard setbacks (**Requirement 3.0ft, Request 2.7ft, Variance 0.3ft**)

The vote was as follows:

YES: Members Horton, Vozos, Howard, Ford, Vice Chair Buttorff and Chair Bond

ABSENT: Member Leanhart

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PUBLIC HEARING

Case No. 23-VARIANCE-0063

Request: Variances to allow a structure to encroach into the required side yard setback and to allow a fence to exceed the maximum height in the rear yard

Project Name: Ronwood Drive Variance

Location: 4921 Ronwood Dr

Owner: Heyler Perez

Applicant: Edna Blanco

Jurisdiction: Louisville Metro

Council District: 24- Madonna Flood

Case Manager: Amy Brooks, 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:

00:49:41 Amy Brooks presented the case and showed a Power Point presentation. Brooks responded to questions from the Board members (see staff report and recording for detailed presentation.)

00:56:15 Joe Haberman responded to questions from Board Members (see video)

00:57:32 Joel Dock responded to questions from Board Member (see video)

The following spoke in support of the request:

Heyler Bidabur Perez, 4921 Ronwood Dr., Louisville, KY 40219

Katherine Nolasco, 1015 Reeves Rd., Louisville, KY 40219

Summary of testimony of those in support:

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Case No. 23-VARIANCE-0063

01:06:30 Heyler Perez and Katherine Nolasco spoke in support of the request. Nolasco translated the information and questions for Mr. Perez. Nolasco responded to questions from Board Members (see recording for detailed presentation)

01:13:24 Joel Dock responded to Vice Chair Buttorff's question (see video).

01:13:47 Joe Haberman responded to Vice Chair Buttorff's question (see video).

The following spoke in opposition to the request:

None

01:18:53 Board Members' deliberation

01:21:09 On a motion by Member Howard, seconded by Member Ford, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** the requested variances to the September 11, 2023 public hearing.

The vote was as follows:

YES: Members Horton, Vozos, Howard, Ford, Vice Chair Buttorff and Chair Bond

ABSENT: Member Leanhart

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PUBLIC HEARING

Case No. 23-VARIANCE-0069

Request: Variance to allow a complete reduction of the outer and middle zone of a stream buffer and Category 3 Development Plan
Project Name: Minor Lane Hotels
Location: 2720 Outer Loop
Owner: Rowan Center Properties, LLC
Applicant: Rowan Center Properties, LLC
Representative: Nick Pregliasco, Bardenwerper, Talbott and Robers, PLLC
Jurisdiction: Louisville Metro
Council District: 13 – Dan Seum, Jr
Case Manager: John Michael Lawler, 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:

01:22:48 John Michael Lawler presented the case and showed a Power Point presentation. Lawler responded to questions from the Board members (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

Nick Pregliasco, Bardenwerper Talbott & Roberts, 1000 N Hurstbourne Pwky, Louisville, KY 40223

Michael Evans, 6625 Colonial Ave, Evansville, IN 47725

Summary of testimony of those in support:

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PUBLIC HEARING

Case No. 23-VARIANCE-0069

01:26:36 Nick Pregliasco spoke in support of the request and presented a PowerPoint presentation. Pregliasco responded to questions from Board Members (see recording for detailed presentation)

01:35:34 Michael Evans spoke in support of the request and responded to questions from Board Members. Evans stated street trees will be provided along the service road every 50ft and plant roughly around 100 trees within the sire area.

The following spoke in opposition of the request:

None

01:37:16 Board Members' deliberation.

Variance from LDC Section 4.8.3.D for a 75' encroachment into a 100' stream buffer

01:37:34 On a motion by Member Howard, seconded by Member Ford, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the variance will not adversely affect the public health, safety or welfare because the proposed hotel buildings are almost entirely out of the buffer, with surface parking constituting the majority of the encroachment, and

WHEREAS, the requested variance will not alter the essential character of the general vicinity because other buildings have been constructed similarly close to the protected waterway. The amount of encroachment is less than what is present on existing sites along the service road, and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public because the applicant has proposed additional water quality treatment capacity in line with the recommendations received from MSD during plan review, and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations because the hotel buildings are only encroaching into a very small portion of the stream buffer, with parking making up much of the additional encroachment. The increased water quality treatment capacity helps to compensate for the encroachment as well, and

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Case No. 23-VARIANCE-0069

WHEREAS, the requested variance does not arise from any special circumstances. The applicant is encroaching into the stream buffer with the proposed hotels and related parking, and

WHEREAS, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the proposed hotel development would not be able to be built, and

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The applicant has not yet built anything on the site; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from LDC Section 4.8.3.D for a 75' encroachment into a 100' stream buffer.

The vote was as follows:

YES: Members Horton, Vozos, Howard, Ford, Vice Chair Buttorff and Chair Bond
ABSENT: Member Leanhart

Category 3 Plan

01:38:32 On a motion by Member Howard, seconded by Member Horton, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Category 3 Plan,

The vote was as follows:

YES: Members Horton, Vozos, Howard, Ford, Vice Chair Buttorff and Chair Bond
ABSENT: Member Leanhart

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PUBLIC HEARING

Case No. 23-VARIANCE-0086

Request: Variances to allow a structure to exceed the maximum required height and to encroach into the required street side yard setback

Project Name: Kenjoy Drive Variances

Location: 6303 Kenjoy Dr.

Owner: Dawn Food Products, Inc

Applicant: Michael Clayton, CFW Engineers, Inc

Jurisdiction: Louisville Metro

Council District: 25- Khalil Batshon

Case Manager: Amy Brooks, 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:

01:39:32 Amy Brooks presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

Michael Clayton, 2600 Eastpoint Pkwy, Suite 101, Louisville, KY 40223

Summary of testimony of those in support:

01:42:45 Michael Clayton spoke in favor of the request. Clayton stated he was there to answer any questions the Board Members have about the request.

The following spoke in opposition to the request:

None

01:44:04 Board Members' deliberation.

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PUBLIC HEARING

Case No. 23-VARIANCE-0086

Variance from section 5.3.4.D.4.a to allow a proposed structure to exceed the maximum height in EZ-1 zoning district.

Variance from section 5.3.4.D.3.a to allow a proposed structure to encroach into the street side setback in the EZ-1 zoning district.

01:45:07 On a motion by Member Vozos, seconded by Member Howard, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

(VARIANCE #1) WHEREAS, the requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all building codes and the LDC except where relief is requested, and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the proposed use is compatible with other industrial uses in the area. In addition, there are other structures on the existing site that exceed the maximum height permitted by the specific form district, and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes. Additionally, the operational process involved will be within a totally enclosed system mitigating risk to the public, and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations as the requested height as there are other structures in the general vicinity that exceed the maximum height requirements, and

WHEREAS, the requested variance does not arise from special circumstances which do not generally apply to the land in the general vicinity or the same zone as the proposed use is compatible with others in the area, and

WHEREAS, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the proposed height variance is the result of increased operational demands, and

WHEREAS, 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 has not started construction and is requesting the variance, and

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Case No. 23-VARIANCE-0086

(VARIANCE #2) WHEREAS, the requested variance will not adversely affect the public health, safety or welfare, because the silo and related equipment will be set back far enough from edge of pavement not to interfere the with the safe movement of vehicles along Kenjoy Drive, and

WHEREAS, the requested variance will not alter the essential, visual character of the general vicinity. This is an area with a high concentration of industrial and commercial buildings where varied setbacks are common, and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes. The closest residential use is a little over 500 ft. away mitigating potential risk from the industrial, operational uses, and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations as there is limited available area on the lot in question. The applicant has limited room to meet the required 25-foot street side setback for the Suburban Workplace Form District, and

WHEREAS, the requested variance does arise from special circumstances which do not generally apply to the land in the general vicinity or the same zone as the lot is not similar to others in this surrounding area. It has a unique shape, and

WHEREAS, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant's operational process. The portion of the site chosen for the silo and steel platforming equipment is located in direct proximity to both existing transfer equipment and rail spur that is essential to the processing operations, and

WHEREAS, 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 has not started construction and is requesting the variance; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested **variance (1)** from section 5.3.4.D.4.a to allow a proposed structure to exceed the maximum height in EZ-1 zoning district (**Requirement 50ft., Request 90ft., Variance 40ft.**) and **variance (2)** from section 5.3.4.D.3.a to allow a proposed structure to encroach into the street side setback in the EZ-1 zoning district (**Requirement 25ft., Request 20ft., Variance 10ft.**)

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The vote was as follows:

YES: Members Horton, Vozos, Howard, Vice Chair Buttorff and Chair Bond

ABSENT: Members Leanhart and Ford

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PUBLIC HEARING

Case No. 23-VARIANCE-0087

Request: Variance to allow a structure to encroach into the required side yard setback
Project Name: Mulberry Street Variance
Location: 1111 Mulberry St.
Owner: Richard Burnette
Applicant: Richard Burnette, Trimworks Inc.
Jurisdiction: Louisville Metro
Council District: 15- Jennifer Chappell
Case Manager: Amy Brooks, 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:

01:47:13 Amy Brooks presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

Rick Burnette, 11200 Sewell Dr., Louisville, KY 40291

Summary of testimony of those in support:

01:50:18 Rick Burnette spoke in favor of the request and responded to questions from Board Members (see recording for detailed presentation)

The following spoke in opposition of the request:

None

01:51:43 Board Members' deliberation.

BOARD OF ZONING ADJUSTMENT MINUTES
August 7, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0087

Variance from the Land Development Code Table 5.2.2 to allow a primary structure to encroach into the side yard setback.

01:52:50 On a motion by Member Howard, seconded by Member Horton, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all applicable building codes and the Land Development Code, except where relief is requested. However, staff is concerned that the variance could adversely affect the adjacent property owner because construction and maintenance of the structure may require encroachment onto the adjacent property located to the west of the subject property, and

WHEREAS, the structure will not alter the essential character of the general vicinity as it will be built with material that is in character with the surrounding residential neighborhood. In addition, there are other principal structures along this stretch of Mulberry Street that encroach into the side yard setback, and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes, and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations as the location of the proposed structure is similar to others in the neighborhood, and

WHEREAS, the requested variance does not arise from special circumstances which do generally apply to the land in the generally vicinity or the same zone as the lot is similar in size and shape to the surrounding properties, and

WHEREAS, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the existing house is built to the property line, and

WHEREAS, 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; now, therefore be it

BOARD OF ZONING ADJUSTMENT MINUTES
August 7, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0087

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the request Variance from the Land Development Code Table 5.2.2 to allow a primary structure to encroach into the side yard setback (**Requirement 3ft, Request 0ft, Variance 3ft**)

The vote was as follows:

YES: Members Horton, Vozos, Howard, Vice Chair Buttorff and Chair Bond
ABSENT: Members Leanhart and Ford

BOARD OF ZONING ADJUSTMENT MINUTES
August 7, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0091

Request: Variance to allow an accessory structure to encroach into the required front yard setback and Waiver to allow and accessory structure in the public realm

Project Name: Talbott Avenue Carport

Location: 2510 Talbott Ave

Owner: Craig Stern

Applicant: Craig Stern

Jurisdiction: Louisville Metro

Council District: 8 – Ben Reno-Weber

Case Manager: Amy Brooks, 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:

01:54:58 Amy Brooks presented the case and showed a Power Point presentation. Brooks responded to questions from Board Members (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

Craig Stern, 2510 Talbott Ave., Louisville, KY 40205

Summary of testimony of those in support:

02:01:00 Craig Stern spoke in favor of the request and responded to questions from Board Members (see recording for detailed presentation)

02:08:42 Joel Dock responded to Vice Chair Buttorff's question (see video)

02:11:18 Joe Haberman responded to Vice Chair Buttorff's question (see video)

**BOARD OF ZONING ADJUSTMENT MINUTES
August 7, 2023**

PUBLIC HEARING

Case No. 23-VARIANCE-0091

**The following spoke in opposition to the request:
None**

02:14:05 Board Members' deliberation.

Waiver from Land Development Code section 5.4.1.B.1 to allow an accessory structure in the Public Realm Area.

02:19:09 On a motion by Member Howard, seconded by Member Ford, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the accessory structure would adversely affect adjoining property owners because it detracts from the character of the neighborhood. While the block face has a historic pattern of principal structures that encroach into the public realm, staff was unable to find evidence of any accessory structures located in between the public right-of-way and the front of the principal structure, and

WHEREAS, the waiver does violate specific guidelines of Plan 2040. Plan 2040 states that revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) in the case of new developments or redevelopments using traditional building scales and site layouts, (c) the preservation of the existing grid pattern of streets and alleys, (c) preservation of public open spaces. The location of the accessory structure in the public realm would violate the traditional site layout as established by the form district. The subject site's location of an accessory structure within the public realm is not complementary to the established site design standards in this block face, and

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant because the applicant has an existing garage and driveway that allows for off- street parking even without rear alley access, and

WHEREAS, the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land because the applicant has access to both a garage and driveway that offset the limited access to the accessory use area; now, therefore be it

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

Case No. 23-VARIANCE-0091

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the requested **Waiver** from Land Development Code section 5.4.1.B.1 to allow an accessory structure in the Public Realm Area.

The vote was as follows:

YES: Members Horton, Vozos, Howard, Ford, Vice Chair Buttorff and Chair Bond
ABSENT: Member Leanhart

Variance from the Land Development Code Table 5.2.2 to allow an accessory structure to encroach into the front yard setback.

02:20:28 On a motion by Member Howard, seconded by Vice Chair Buttorff, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the requested variance will not adversely affect the public health, safety or welfare, because the structure is not fully enclosed and will not negatively impact the safe movement of people or vehicles along Talbott Avenue, and

WHEREAS, the variance will alter the essential character of the general vicinity because there are no other accessory structures that encroach within the front yard setback, and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public because it neither impedes vision clearance for vehicles traveling along Talbott Avenue nor pedestrians that would utilize the sidewalks in the public right-of-way, and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations as there is no alley access to the accessory use area on the site. Additionally, the other side of Talbott Avenue is developed with neighborhood form guidelines, which does not require the more stringent design components of the Traditional Neighborhood, and

WHEREAS, the requested variance does not arise from special circumstances which do generally apply to the land in the general vicinity or the same zone as the lot is similar in size and shape to the surrounding properties, and

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

Case No. 23-VARIANCE-0091

WHEREAS, the strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant as there is an existing garage and driveway that allow for off-street parking on the subject site, and

WHEREAS, The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The applicant has already completed construction on the carport; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the requested Variance from the Land Development Code Table 5.2.2 to allow an accessory structure to encroach into the front yard setback (**Requirement 15ft, Request 8ft, Variance 7ft**)

The vote was as follows:

YES: Members Horton, Vozos, Howard, Ford, Vice Chair Buttorff and Chair Bond
ABSENT: Member Leanhart

**BOARD OF ZONING ADJUSTMENT MINUTES
August 7, 2023**

PUBLIC HEARING

Case No. 23-CUP-0132

Request: Conditional Use Permit for an Accessory Dwelling Unit
Project Name: St. Xavier Street Accessory Dwelling Unit
Location: 2101 St. Xavier St.
Owner: Sun Liang LLC
Applicant: Richard Pantoja
Jurisdiction: Louisville Metro
Council District: 5 – Donna Purvis
Case Manager: Amy Brooks, 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:

02:21:42 Amy Brooks presented the case and presented a Power Point presentation (see staff report and recording for detailed presentation and discussion.)

The following spoke in support of the request:

Richard Pantoja, P.O. Box 6833, Louisville, KY 40206

Summary of testimony of those in support:

02:26:07 Richard Pantoja spoke in support of the request and responded to questions from the Board Members (see recording for detailed presentation)

Summary of testimony of those in opposition:

None

02:30:44 Board Members' deliberation.

BOARD OF ZONING ADJUSTMENT MINUTES
August 7, 2023

PUBLIC HEARING

Case No. 23-CUP-0132

Conditional Use Permit to allow an Accessory Dwelling Unit in the UN Single Family zoning district and the Traditional Neighborhood form district. (LDC 4.2.3)

02:39:54 On a motion by Vice Chair Buttorff, seconded by Member Ford, the following resolution, based on the evidence and testimony heard today, was adopted:

WHEREAS, the Board finds that the applicant has not provided enough evidence to approve the CUP for a non-owner occupied Accessory Dwelling unit and the property would be better as a duplex. Change in zoning would be a more appropriate process to allow 2 non-owners to occupy the dwelling.

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the requested Conditional Use Permit to allow an Accessory Dwelling Unit in which the owner would not reside on the property. (LDC 4.2.3)

The vote was as follows:

YES: Members Horton, Vozos, Howard, Ford, Vice Chair Buttorff and Chair Bond
ABSENT: Member Leanhart

BOARD OF ZONING ADJUSTMENT MINUTES
August 7, 2023

PUBLIC HEARING

Case No. 23-CUP-0143

Request: Conditional Use Permit for a RV Park
Project Name: Derby Park RV Resort
Location: 2900 7th Street Rd
Owner: Louisville 2900, LLC
Applicant: Frost Brown & Todd, LLP
Bowman Consulting Group, LTD
Jurisdiction: City of Shivley
Council District: 3- Kumar Rashad
Case Manager: Molly Clark, 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:

02:41:08 Molly Clark presented the case and showed a Power Point presentation. Clark responded to questions from Board Members (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

Tanner Nichols, Frost Brown & Todd, 400 W. Market St. Suite 300, Louisville, KY 40202

Taylor Parker, 3450 Radiance Rd., Louisville, KY 40220

Summary of testimony of those in support:

02:48:57 Tanner Nichols spoke in support of the request and presented a PowerPoint presentation. Nichols responded to questions from Board Members (see recording for detailed presentation)

**BOARD OF ZONING ADJUSTMENT MINUTES
August 7, 2023**

PUBLIC HEARING

Case No. 23-CUP-0143

03:00:36 Taylor Parker spoke in support of the request and responded to questions from Board Members (see recording for detailed presentation)

03:05:56 Joel Dock responded to questions from Member Howard.

**The following spoke in opposition to the request:
None**

03:10:13 Board Members' deliberation.

03:19:33 Public Hearing was reopened to allow Mr. Parker an opportunity to respond to questions from Board Members (see recording for detailed presentation)

03:35:05 Board Members' deliberation.

03:37:26 On a motion by Member Howard, seconded by Vice Chair Buttorff, the Louisville Metro Board of Zoning Adjustment does hereby CONTINUE the requested Conditional Use Permit from section 4.2.11 of the Land Development Code (City of Shivley) for a proposed Camping and Recreational Vehicle (RV) park to the September 11, 2023 public hearing.

The vote was as follows:

YES: Members Horton, Ford, Vice Chair Buttorff and Chair Bond

NO: Member Leanhart

ABSENT: Member Howard and Member Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
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The meeting adjourned at approximately 04:47 p.m.

DocuSigned by:
Sharon Bond
A17635B5DE2041E

Chair

DocuSigned by:
Kim Wankart
0939A29ECC004B8

Secretary