

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

JUNE 6, 2016

A meeting of the Louisville Board of Zoning Adjustment was held on June 6, 2016, at 8:30 a.m. at the Old Jail Building, 514 W Liberty Street, Louisville, KY 40202.

Members present:

Mike Allendorf, Chairperson
Betty Jarboe, Vice Chairperson
Rosalind Fishman, Secretary
Dean Tharp
Paul Bergmann
Lester Turner
Lula Howard

Members absent:

No one

Staff members present:

Emily Liu, Director, Planning & Design Services
Joe Reverman, Assistant Director Planning & Design Services
John Carroll, Legal Counsel
Brian Davis, Planning Manager
Steve Hendrix, Planning Supervisor
Jon Crumbie, Planning Coordinator
Laura Mattingly, Planner I
Ross Allen, Planner I
Joel Dock, Planner I
Sherie Long, Landscape Architect
Tony Kelly, MSD
Pam Brashear, Management Assistant
Kristen Loeser, Management Assistant

*Member Howard arrived at 8:42 a.m.

*Member Bergmann arrived at 8:50 a.m.

The following cases were heard:

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APPROVAL OF MINUTES

June 6, 2106 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:04:37 On a motion by Member Fishman, seconded by Member Turner, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on May 16, 2016.

The vote was as follows:

Yes: Fishman, Turner, Allendorf, and Jarboe

Absent: Bergmann, Howard

Abstain: Tharp

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BUSINESS SESSION

CASE NUMBER 16VARIANCE1028

Request:	Proposed garage to encroach into the side yard setback.
Project Name:	207 Ridgeway Avenue
Location:	207 Ridgeway Avenue
Area:	16200 acres
Owner:	Jerris and Mary Wise
Applicant:	Jerris and Mary Wise
Representative:	Jerris and Mary Wise
Jurisdiction:	Saint Matthews
Council District:	9 – Bill Hollander
Case Manager:	Ross Allen, Planner I

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

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

Agency Testimony:

00:05:35 Steve Hendrix stated there were no changes and the neighbors have signed off (see staff report and recording for detailed presentation).

00:09:15 In response to Member Fishman, Jerris Wise, the owner/applicant, was allowed to clarify that the gutters will not cross the property line, nor will rain water be drained onto the neighbor's property.

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition to the request:

No one spoke.

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00:10:52 Board Members' deliberation

00:11:24 On a motion by Vice Chair Jarboe, seconded by Member Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustments finds that the requested variance will adversely affect the public health, safety or welfare since the proposed garage would be situated on the property line and pitch of the roof would require guttering to prevent water run-off onto the neighboring property, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since properties to the East and North of the applicant have two car garages however, the applicant's lot size and an in-ground pool restrict the space for the proposed detached garage, and

WHEREAS, the Board further finds that the requested variance will cause a hazard or nuisance to the public since the proposed garage would be situated up to the northern property line and could impact the neighboring property as a result of water run-off from the roof, and

WHEREAS, the Board further finds that the requested variance will allow an unreasonable circumvention of the zoning regulations since the requested zero foot setbacks will require the applicant to encroach upon his northern neighbors property to maintain the detached garage, and

WHEREAS, the Board further finds that the requested variance does arise from special circumstances which do not generally apply to land in the general vicinity or the same zone since the applicant's in-ground pool limits space for the size of proposed detached two car garage, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land since the one car garage that exist on site currently provides shelter for a vehicle and the in-ground pool restricts the construction of the proposed two car garage resulting from space constraints along the Northern property line, and

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WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the applicant has not undertaken any construction related to the requested variance; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1028, does hereby **APPROVE** the variance from the Development Code (St. Matthews) section 9.2.P to allow the proposed garage to encroach into the side yard setback by two feet (**Requirement 2', Request 0', Variance 2'**) based on the Staff Report and the applicant's testimony that his gutter line will not exceed the variance.

The Board by general consensus granted the request for variance.

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BUSINESS SESSION

CASE NUMBER 16VARIANCE1025

Request:	Reduction in the Private Yard Area.
Project Name:	142 Coral Court
Location:	142 Coral Court
Area:	.14500 acres
Owner:	Joseph Oldham
Applicant:	Emily Fisher – Architect at Rock Paper Hammer
Representative:	Emily Fisher – Architect at Rock Paper Hammer
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Ross Allen, Planner I

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

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

Agency Testimony:

00:15:20 Ross Allen clarified that the variance will cause no hazard to the public. This was a typo in the Staff Report.

00:12:44 Board Members' deliberation

00:13:27 On a motion by member Fishman, seconded by member Tharp, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the proposed reduction in private yard area is approximately 127 sf. which is not visible to the public and is enclosed by a fence currently, and

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WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the addition will be similar in scale to two properties to the North of 142 Coral Court, and

WHEREAS, the Board further finds that the requested variance will cause a hazard or nuisance to the public since the rear addition and the approximate 127 sf. of reduction to the private yard area would not be visible to the general public, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since many homes within the general vicinity have additions similar in size and scale of the addition proposed by the applicant, and

WHEREAS, the Board further finds that the requested variance does arise from special circumstances which do not generally apply to land in the general vicinity or the same zone since the house is setback upon a hill approximately 55' ft. from the front property line as a result the public realm is larger than the private yard area resulting in the variance request, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since any addition in the private yard area would require that homes in the general vicinity obtain a variance. Furthermore, as stated previously the home is situated atop a hill with a front setback of approximately 55' ft. resulting in a private yard area that is small so any addition to the rear of the principal structure would require a variance, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the applicant had made no attempt to construct or undertake construction prior to approval from the Board of Zoning Adjustment; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1025, does hereby **APPROVE** the variance from the Land Development Code section 5.4.1.D. 2 to allow the private yard area to be less than the required 30% for a lot greater than 6000 sf (**Requirement 30%, Request 22%, Variance 8%**) based on the Staff Report, including the Additional Considerations.

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CASE NUMBER 16VARIANCE1025

The Board by general consensus granted the request for variance.

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BUSINESS SESSION

CASE NUMBER 15VARIANCE1062

Request:	Status Report
Project Name:	Louisville Islamic Center
Location:	4104 River Road
Owner:	Louisville Islamic Center, Inc
Applicant:	Ozair Shariff, Board Member
Representative:	Cliff Ashburner, Attorney
Jurisdiction:	Louisville Metro
Council District:	7– Angela Leet
Case Manager:	Sherie' Long, Landscape Architect

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

Agency Testimony:

00:16:10 Sherie Long presented the case and referenced a presentation. A photograph was not provided of the dumpster, and the applicant is not present to provide this (see recording for detailed presentation).

00:17:13 Board Members' deliberation

The Board by general consensus agreed to allow Ms. Long to confirm with the applicant that the dumpster has been properly enclosed. She will return to the Board if this was not completed.

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PUBLIC HEARING

CASE NUMBER 14CUP1003

Request: Time Extensions concerning certain Conditions of Approval for the potentially hazardous or nuisance use (staging lot for trucks and trailers) Conditional Use Permit, approved on January 11, 2016.

Project Name: Conditions of Approval

Location: 151 & 201 Cabel Street

Owner: Swift Pork Company

Applicant: JBS USA, LLC & Swift Pork Company

Representative: Glenn Price

Jurisdiction: Louisville Metro

Council District: 4 – David Tandy

Case Manager: Steve Hendrix, Planning and Design Supervisor

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

NOTE: This case was heard out of order as the first item under Public Hearing.

Agency Testimony:

00:20:30 Glenn Price presented the case (see recording for detailed presentation).

The following spoke in favor of the request:

Adam K. Neel, Tachau Meek PLC, 101 S 5th St, #3600, Louisville, KY 40202

Summary of testimony of those in favor:

00:21:35 Adam Neel spoke in favor of the request on behalf of Jon Solomon and requested that the case be continued to the June 20, 2016 meeting of the Board of Zoning Adjustment.

The following spoke in opposition to the request:

No one spoke.

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00:22:20 **Board Members' deliberation**

00:22:38 On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment in Case Number 14CUP1003 does hereby **DEFER** the case concerning certain Conditions of Approval for the potentially hazardous or nuisance use (staging lot for trucks and trailers) Conditional Use Permit to the June 20, 2016 meeting of the Board of Zoning Adjustment.

The vote was as follows:

Yes: Fishman, Turner, Allendorf, Jarboe, Tharp, Bergmann, and Howard

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PUBLIC HEARING

CASE NUMBER 16VARIANCE1024

Request:	Variance from a minimum street side yard setback.
Project Name:	2219 Millvale Road
Location:	2219 Millvale Road
Area:	.44310 acres
Owner:	Carl and Lisa Shishmanian
Applicant:	Michael F. Tigue – Law Office of Michael Tigue, PLLC
Representative:	Michael F. Tigue – Law Office of Michael Tigue, PLLC
Jurisdiction:	Louisville Metro
Council District:	8 – Tom Owen
Case Manager:	Ross Allen, Planner I

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

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

Agency Testimony:

00:27:37 Ross Allen presented the case and referred to a PowerPoint presentation. Mr. Allen responded to questions from the Board (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Michael Tigue, 3205 Maple Leaf Drive, LaGrange, KY 40031
Carl Shishmanian, 2219 Millvale Road, Louisville, KY 40205

Summary of testimony of those in favor:

00:33:04 Michael Tigue spoke on behalf of the applicant and responded to questions from the Board (see staff report and recording for detailed presentation).

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00:37:12 Carl Shishmanian spoke in favor of the request and responded to questions from the Board (see staff report and recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

00:38:56 Board Members' deliberation

00:39:28 On a motion by Vice Chair Jarboe, seconded by Member Tharp, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the applicant has proposed a 636 sf. (approx.) addition to the home that is 30 feet from the edge of pavement along Douglas Boulevard and does not abut any other adjacent property line, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the applicant has stated the addition will be consistent with the pattern and appearance of homes within the general vicinity, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the proposed use is for additional living space within a residentially zoned area, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the proposed addition is an expansion of living space within an R-4 zoned parcel and adjacent parcels are of the same zoning type, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone since many homes in the general vicinity are situated on the parcels which make many street side yard setbacks less than required by the LDC, and

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WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since the proposed addition is for the potential care of a family member, which could require other living arrangements for the family member, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the applicant has made no attempt to date to construct prior to Board of Zoning Adjustment approval; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1024, does hereby **APPROVE** the variance from LDC section 5.3.1 table 5.3.1 Dimensional Standards – Residential Development to allow a proposed addition to the principal structure to encroach into the minimum street side yard setback (**Requirement 30', Request 4' 9", Variance 25' 3"**) based on the Staff Report, the applicant's testimony, and the lack of negative impact to the surrounding area.

The vote was as follows:

Yes: Fishman, Turner, Allendorf, Jarboe, Tharp, Bergmann, and Howard

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CASE NUMBER 16DEVPLAN1022

Request:	Proposed 4,000 sf. Contractor's Shop
Project Name:	Albany Ave. Building Project
Location:	1635 Albany Ave.
Area:	.32830 acres
Owner:	Casabella Properties LLC.
Applicant:	Bill Schroll – Schroll Land Surveying LLC.
Representative:	Bill Schroll – Schroll Land Surveying LLC.
Jurisdiction:	Louisville Metro
Council District:	3 – Mary Woolridge
Case Manager:	Ross Allen, Planner I

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

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

Agency Testimony:

00:41:20 Ross Allen presented the case and referred to a PowerPoint presentation. Mr. Allen responded to questions from the Board (see staff report and recording for detailed presentation).

00:52:10 Tony Kelly with MSD responded to questions from the Board regarding ponding concerns. He explained the resolution MSD has provided regarding a neighbor's letter about drainage concerns (see staff report and recording for detailed presentation).

00:58:15 Mr. Allen continued to respond questions from the Board. He confirmed there will be no animating features on this project (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Bill Schroll, 5450 Southview Drive, Louisville, KY 40214
John Weeks, 6106 Trapper Ridge Circle, Louisville, KY 40216

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Summary of testimony of those in favor:

01:02:32 Bill Schroll spoke in favor of the request and responded to questions from the Board. Mr. Schroll expressed concern with building security (see staff report and recording for detailed presentation).

01:11:35 John Weeks responded to questions from the Board (see staff report and recording for detailed presentation).

01:14:20 Mr. Allen responded to questions from the Board (see staff report and recording for detailed presentation).

01:18:25 John Weeks responded to questions from the Board regarding screening for the neighbors (see staff report and recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

01:19:39 Board Members' deliberation

Public Hearing was reopened to discuss with the applicant the addition of animated features.

01:25:30 Mr. Schroll stated the building will be two-tone in color. He expressed his concerns about security, but would be willing to add animated features of some kind to the front of the building if they can be secure.

01:26:25 Mr. Weeks clarified that the lower half of the building will be one color and the upper half of the building will be a different color. Mr. Weeks will also install a privacy fence on the neighbor's property, per his request.

01:30:00 Mr. Allen stated that the applicant's neighbor submitted a letter stating that he did not want a privacy fence, but he has since rescinded this letter (see staff report and recording for detailed presentation).

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01:30:56 Mr. Schroll further explained to the Board the neighbor's reasoning behind the letter and responded to more questions from the Board (see staff report and recording for detailed presentation).

01:33:34 Board Members' deliberation

01:39:16 On a motion carried by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

Variance from LDC section 5.3.2.C.2.B to allow parking and maneuvering area into the 25 ft. setback along the west property line.

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the parking is private and for the contractor's use and not intended for public use, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the area is a mixture of commercial, single family, and vacant lots. Similar structures and designs, like those the applicant is proposing, are present in the general vicinity, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the parcel lies in an M-2 zoning district. The intended use as stated by the applicant is for a contractor's shop that will be used for storage of materials for various rental properties.

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the parcel lies in an M-2 zoning district which does permit contractor's shops; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16DEVPLAN1022, does hereby **APPROVE** the variance from LDC section 5.3.2.C.2.B to allow parking and maneuvering area into the 25 ft. setback along the west property line (**Requirement 25'**, **Request 0'**, **Variance 25'**) based on the Staff Report, recommendations, and the applicant's explanation of how he will utilize his property.

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The vote was as follows:

Yes: Fishman, Turner, Allendorf, Jarboe, Tharp, Bergmann, and Howard

01:41:58 On a motion carried by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

Waiver #1 from LDC section 5.5.2.A.1 to have an entrance with glazing, display windows or windows affording views into the business which face the street serving the development, and

Waiver #2 from LDC section 5.6.1.B.1.a to have animating features along less than 60% of their horizontal length on the ground floor level of the primary façade of the principal customer entrance.

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the area is a mixture of commercial and residential properties with similar buildings to the proposed development in the general vicinity, and

WHEREAS, the Board further finds that guideline 3, policy 1 and 2 calls for the compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. The type of building materials may be considered as a mitigation measure and may also be considered in circumstances specified in the Land Development Code. When assessing compatibility, it is appropriate to consider the choice of building materials in the following circumstances: (1) projects involving residential infill (2) projects involving non-residential uses; and (3) when specified in the Land Development Code. The proposal is for a non-residential use. The Land Development Code provides building design standards for non-residential and mixed use buildings. The purpose of the regulation is to provide visual interest and a human scale that are representative of the form district through the use of windows, columns, pilasters, piers, variation of material, entrances, storefront windows, and other animating features along no less than 60% of the horizontal length. The applicant is proposing to have no windows or doors on the building facing the primary street, Albany Ave. However, the proposed development will be similar in scale, design, and materials to existing development within the general vicinity, and

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WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the proposed building is for a contractor's office and storage with no public use intended for the site in an industrially zoned area with residential uses, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since the intended use is for office and storage space. The applicant is incorporating landscaping along the front of the building to screen the façade of the proposed structure, and

Waiver #3 from LDC section 5.7.1.B.3.a to not provide the property perimeter buffer yard between the R-5 Suburban Neighborhood Form District and the Suburban Market Place Corridor Form District.

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the general vicinity is a mixture of commercial and residential uses. The planting that would be required would result in the street frontage along the applicants parcel to be screened and would be the only parcel along Albany Avenue to have screening, and

WHEREAS, the Board further finds that guideline 3, policy 1 and 2 calls for the compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. The type of building materials may be considered as a mitigation measure and may also be considered in circumstances specified in the Land Development Code. When assessing compatibility, it is appropriate to consider the choice of building materials in the following circumstances: (1) projects involving residential infill (2) projects involving non-residential uses; and (3) when specified in the Land Development Code. The proposal is for a non-residential use. The Land Development Code provides building design standards for non-residential and mixed use buildings. The purpose of the regulation is to provide visual interest and a human scale that are representative of the form district through the use of windows, columns, pilasters, piers, variation of material, entrances, storefront windows, and other animating features along no less than 60% of the horizontal length. The applicant is proposing to have no windows or doors on the building facing the primary street, Albany Ave., and has bay doors facing the rear of two residential properties along Walnut Grove Ave. The proposed development will be similar in scale, design, and materials to existing development within the general vicinity, and

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WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the applicant is proposing to provide landscaping along the western and northern property lines that fits the existing character of the general vicinity as a result of the transition zone buffer, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since the proposed use is within a M-2 zoning district surrounded by vacant, commercial, and residential parcels. The transition zone would encompass approximately 80% of the applicant's parcel/s restricting use for the parcel without required landscaping, and

Waiver #4 from LDC section 5.9.2.A.1.b to provide a clearly defined safe pedestrian access from the public right of way through the off-street parking area to the non-residential building entrance.

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since there are no sidewalks provided in the public right of way in the general vicinity from which to build an extension of the sidewalk to access the front of the proposed structure. Furthermore, the proposed layout of the parcel has no front entrance which relief is sought from a previous waiver. Also, access to the proposed structure is by vehicle only and is not intended for public use, and

WHEREAS, the Board further finds that guideline 2, policy 15 states to encourage the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Guideline 3, policy 1 states to ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. Guideline 3, policy 23 states that setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines. The waiver is compatible with the pattern of development within this general vicinity. Therefore, the waiver will not violate specific guidelines and policies of Cornerstone 2020 as it pertains to the general vicinity since the area has no sidewalks in the public right of way from which to construct a pedestrian access to the entrance of the proposed structure, and

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WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the proposed structure is not intended for pedestrian access from the public right of way, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since the proposed 4000 sf. structure is for a contractor's maintenance shop with an office/storage and is not used by the general public, and

Waiver #5 from LDC section 10.2.11 to provide a 6 foot continuous screen along the northern and western property lines for a Vehicular Use Area (VUA) adjacent to a residential use.

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since adjoin property owners to the west have requested the 6 foot screen not be required due to security concerns and maintenance issues. The northern property line has a drainage ditch but also abuts the rear of a residence at 1628 East Rockford Lane, and

WHEREAS, the Board further finds that guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities

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associated with impervious surfaces, and to filter air borne and water borne pollutants, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since residents along the western property line have requested that the applicant not provide screening, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since it currently sits vacant and is partially screened by trees along the northern property line near the drainage ditch, and

Waiver #6 from LDC section 5.8.1.B to not provide sidewalks in the abutting right of way to serve the entrance of the development site.

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since there are no sidewalks in the general vicinity. Furthermore, there is a small concrete drainage ditch that goes along the entire street frontage (Albany Ave.), and

WHEREAS, the Board further finds that Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. The waiver will not violate Cornerstone 2020 since the general vicinity has no sidewalks and there is a small concrete drainage ditch that goes along the entire street frontage (Albany Ave.), and

WHEREAS, the Board further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since there are no sidewalks in the general vicinity. There is a small concrete drainage ditch that goes along the entire street frontage (Albany Ave.), and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since the proposed construction of a 4,000 sf. structure would be cost prohibitive and since

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the area has no existing sidewalks the requirement would have no connections to existing sidewalks in the general vicinity; now, therefore be it

RESOLVED, that the Louisville Board of Zoning Adjustment, in Case Number 16DEVPLAN1022, does hereby **APPROVE** Waivers 1 and 2 with the understanding that the applicant will obtain the approval from staff landscape architect regarding how to improve the streetscape of the building on the Albany Avenue side, Waivers 3 and 4 as written, Waiver 5 with the exception of the Walnut Grove Avenue Land Trust, and Waiver 6 as written based on the Staff Report, the applicant's testimony, and the contribution from MSD regarding flooding issues on the property.

The vote was as follows:

Yes: Fishman, Turner, Allendorf, Jarboe, Tharp, Bergmann, and Howard

01:44:50 The meeting was recessed.

01:45:10 The meeting was reconvened.

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CASE NUMBER 16DEVPLAN1021

Request:	Proposed 1 story 4,810 sf. Subway/Commercial
Location:	7506 Preston Highway
Area:	.54 acres
Existing Use:	Parking
Proposed Use:	Mixed Commercial
Owner:	Charlotte M. Walford – CJP Properties
Applicant:	Ishwer Patel Lakshmi LLC.
Representative:	John Miller – Miller/Whiry MWGLLC
Jurisdiction:	Louisville Metro
Council District:	13 – Vicki Aubrey Welch
Case Manager:	Ross Allen, Planner I

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

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

Agency Testimony:

01:45:37 Ross Allen presented the case and referred to a PowerPoint presentation. Mr. Allen responded to questions from the Board (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

John Miller, 1387 S 4th Street, Louisville, KY 40208

Summary of those in favor:

02:01:38 John Miller spoke in favor of the request. He responded to questions from the Board (see staff report and recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

02:13:06 Board Members' deliberation

02:15:43 Mr. Allen responded to further questions from the Board (see staff report and recording for detailed presentation).

2:20:15 In response to a question from the Board, Mr. Miller clarified that the green sections on the plan represent landscaping.

02:21:42 On a motion by Member Jarboe, seconded by Member Fishman, the following resolution was adopted;

Variance from LDC section 5.3.2.C.2.b to provide a 25' ft. rear yard setback when a non-residential use abuts a residential zone and to allow vehicular parking and maneuvering in the rear yard setback.

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the rear of the property abuts a vacant R-5 zoned parcel, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the rear of the property abuts an R-5 zoned parcel which is vacant, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the applicants have proposed a rain garden to the rear of the proposed parking to alleviate issues of water run-off, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the zoning for the proposed development is within a C-1 zoning district which allows for the commercial retail use and the adjacent R-5 zoned parcel to the rear is vacant which poses no adverse effect upon residences in the general vicinity, and

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WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone since the Suburban Market Place corridor along Preston Highway has compatible and similar uses to what the applicant is proposing to develop, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since the 25 foot setback, which abuts a vacant R-5 zoned parcel, would result in a parking decrease. The setback is to mitigate the visual impact of different development types upon residential uses which is not the case since the parcel is vacant, and

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

Waiver #1 from LDC section 5.7.1.B.3.a for the property perimeter buffer yard required in Chapter 10, table 10.2.3, to not provide the screening density requirements:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the general vicinity is a mixture of commercial and residential uses. The required planting would result in a screening that lies between the rear of the property and a vacant R-5 zoned lot where no residential property resides, and

WHEREAS, the Board further finds that guideline 3, policy 1 and 2 calls for the compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. The type of building materials may be considered as a mitigation measure and may also be considered in circumstances specified in the Land Development Code. When assessing compatibility, it is appropriate to consider the choice of building materials in the following circumstances: (1) projects involving residential infill (2) projects involving non-residential uses; and (3) when specified in the Land Development Code. The proposal is for a non-residential use. The Land Development Code provides building design standards for non-residential and mixed use buildings. The purpose of the regulation is to provide visual interest and a human scale that are representative of the form district through the use of windows, columns, pilasters, piers,

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variation of material, entrances, storefront windows, and other animating features along no less than 60% of the horizontal length. The applicant is proposing a frontage that meets the 60% with use of windows, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since placement of the proposed commercial retail is situated along Preston Highway in a Suburban Marketplace Corridor Form District, the rear of the property has a parcel zoned R-5 with no residential structures which would be accessed only through the applicant's property, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since the proposed screening requirement is intended for screening from residentially used land while the rear of the property is zoned R-5 it does not have any residences located on the property, and

Waiver #2 from LDC section 10.2.10 to provide a 10' ft. Vehicular Use Landscape Buffer Area along the street frontage.

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since Pizza Hut, Southern Comfort Spas and La Loma, in the general vicinity of Preston Highway do provide a vehicular landscape buffer areas along the Preston Highway frontage, and

WHEREAS, the Board further finds that the waiver will not adversely affect adjacent property owners since Pizza Hut, Southern Comfort Spas and La Loma, in the general vicinity of Preston Highway do provide a vehicular landscape buffer areas along the Preston Highway frontage, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the proposed space along the frontage could allow for landscaping. Instead the applicant has proposed to provide a large concrete curb which would not allow for landscaping in the vehicular landscape buffer area and create an impervious surface equal to the existing parking lot, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land since the proposed LBA of 10 feet is to have a large curb cut which leads to a

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sidewalk in the right-of-way. The applicant could provide screening and landscaping to deter the impact of both the vehicular use area and decrease run-off from the impervious surface, and

Waiver #3 from LDC section 10.2.4 to provide a 25' ft. Buffer Yard and required plantings in the rear of the property.

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the rear of the property abuts a vacant R-5 zoned property which has no residences, and

WHEREAS, the Board further finds that guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The applicant has proposed a rain garden in the rear of the property in a 15' ft. drainage easement to decrease storm water run-off, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the proposed development abuts a vacant parcel of R-5 zoned property which has no residences, and

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WHEREAS, the Board further finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) as shown on the development plan the applicant is proposing to have a rain garden along the rear of the property in a 15' ft. drainage easement; now, therefore it be

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16DEVPLAN1021, does hereby **APPROVE** the Variance from LDC section 5.3.2.C.2.b to provide a 25' ft. rear yard setback when a non-residential use abuts a residential zone and to allow vehicular parking and maneuvering in the rear yard setback (**Requirement 25', Request 0', Variance 25'**), and Waivers 1, 2 and 3, conditioned upon the input of the landscape architect and staff, based on the applicant's site plan, the staff report, and testimony heard today.

The vote was as follows:

Yes: Fishman, Turner, Jarboe, Tharp, Bergmann, and Howard
Abstain: Allendorf

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CASE NUMBER 15VARIANCE1069

Request:	Variance from street side yard fence height.
Project Name:	1343 Lydia Street
Location:	1343 Lydia Street
Owner:	Eddie & Nancy Hancock
Applicant:	Eddie & Nancy Hancock
Representative:	Same
Jurisdiction:	Louisville Metro
Council District:	10 – Patrick Mulvihill
Case Manager:	Laura Mattingly, 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 S 5th Street).

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

Agency Testimony:

02:25:40 Laura Mattingly presented the case and referred to a PowerPoint presentation. Ms. Mattingly responded to questions from the Board (see staff report and recording for detailed presentation).

The following spoke in favor of the request:
Ed Hancock, 2213 Alta Avenue, Louisville, KY 40205

Summary of testimony of those in favor:

02:32:30 Mr. Hancock spoke in favor of the request and responded to questions from the Board (see staff report and recording for detailed presentation).

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

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02:35:40 Board Members' deliberation

02:36:45 On a motion by Member Howard, seconded by Member Fishman, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the fence is outside of the sight triangle (corner of Lydia Street and Clarks Lane) and the alley is a one-way in so no one should be pulling out onto Clarks Lane from the alley, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as several homes in the area have similar fences, including the property across the alley to the east and across Lydia to the west, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the fence has been in place for several years and does not appear to obstruct the sight distance for drivers, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the fence in question has been in place for at least 22 years and has not changed in that time, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as properties in the general vicinity have similar size and style fences, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and create an unnecessary hardship on the applicant as the fence blocks noise and provides safety from the traffic of Clarks Lane and the nearby commercial businesses, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the fence was in place when the property was purchased in 1993; now, therefore be it

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RESOLVE, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1022, does hereby **APPROVE** the Variance from the Development Code section 4.4.3.A to allow a proposed fence height to exceed the maximum 3.5 ' ft. height in a street side yard (**Requirement 3.5', Request 6', Variance 2.5'**) based on the staff report, inclusive of pages 1, 2, and 3, the testimony heard today, and evidence provided by the applicant.

The vote was as follows:

Yes: Fishman, Turner, Allendorf, Jarboe, Tharp, Bergmann, and Howard

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CASE NUMBER 16VARIANCE1030

Request:	Existing principal structure to encroach into the street side yard setback.
Project Name:	2229 Flat Rock Road
Location:	2229 Flat Rock Road
Area:	1.23970 acres
Owner:	Robert Stanley
Applicant:	Robert Stanley
Representative:	Robert Stanley
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton
Case Manager:	Ross Allen, Planner I

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

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

Agency Testimony:

02:39:02 Ross Allen presented the case and referred to a PowerPoint presentation. Mr. Allen responded to questions from the Board (see staff report and recording for detailed presentation).

Testimony of those in favor of the request:

Robert Stanley, 2229 Flat Rock Road, Louisville, KY 40245
Shannon Thacker, 2225 Flat Rock Road, Louisville, KY 40245

Summary of testimony of those in favor:

02:46:37 Robert Stanley spoke in favor of the request and responded to questions from the Board. He stated there was a discrepancy with the information provided to him from the Planning and Design department in January

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2016, which is what led him to request the variance (see staff report and recording for detailed presentation).

02:53:20 There was concern as a result of a letter of opposition received from Ms. Lisa Tobe that the notifications of the hearing were not distributed. Mr. Allen confirmed notifications were sent and that it is possible she did not receive notice because she is not the home owner.

02:57:14 Mr. Stanley stated that he would be using a dense-grade type of gravel on his driveway to minimize dust.

02:58:07 In response to a question from Committee Member Bergmann, Mr. Allen advised that the criteria for a maximum impervious surface is typically reviewed for larger developments than this one.

03:00:54 Brian Davis stated there are no specific standards in the Land Development Code for maximum impervious surface for single family lots.

03:01:56 Shannon Thacker is Mr. Stanley's neighbor and spoke in favor of the request. She believes he has improved the property and that his project will increase the value of the homes in the neighborhood. She responded to questions from the Board (see staff report and recording for detailed presentation).

Testimony of those in opposition of the request:

Lisa Miller, 15000 Portico Estate Drive, Louisville, KY 40245

Summary of testimony of those in opposition:

03:04:40 Lisa Miller was highly upset. She was concerned with the size of the structures, where the applicant's septic system would be placed, and if he has followed the correct procedures in regards to notifying his neighbors of the development—she stated she did not receive a notice of the variance and that she feels the sign was posted on the wrong side of the property. She responded to questions from the Board (see staff report and recording for detailed presentation).

03:17:45 Steven Hendrix explained why he chose the location for the sign (see staff report and recording for detailed presentation).

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03:23:14 Ross Allen explained procedures for the delivery of notices and stated the notices were properly labeled and were provided to the applicant along with the affidavit.

REBUTTAL:

03:28:35 Mr. Stanley spoke in rebuttal and detailed his experience with Ms. Miller. He responded to questions from the Board (see staff report and recording for detailed presentation).

03:33:50 Board Members' deliberation

03:39:20 On a motion by Member Jarboe, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the footer to the housing is approximately 34 feet from the property line and approximately 40 feet from the edge of pavement. The home sits away from Aiken Road by approximately 40' ft. and the corner sight triangle of Aiken Road and Flat Rock Road are unobstructed for vision clearance, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the closest home (located northeast of the subject site) has a setback less than the code requirement, and

WHEREAS, the Board further finds that the requested variance will cause a hazard or nuisance to the public since the home sits away from Aiken Road by approximately 40' ft. and the corner sight triangle of Aiken Road and Flat Rock Road are unobstructed for vision clearance, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the proposed residential structure would have a 34' ft. setback which is greater than the required street yard setback as listed in LDC section 5.3.1 table 5.3.1 (30' ft.). The supplemental setback requires the applicant to further distance the property as the result of being along a secondary collector roadway, and

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WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone since many homes in the general vicinity are not located on a corner lot which requires the applicant to meet the supplemental setback requirement, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since the applicant has the foundation poured for the residence, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the applicant has sought to rectify the error by requesting a variance for the street side yard setback; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1030, does hereby **APPROVE** the variances from the Land Development Code section 5.3.1.C.4 and table 5.3.1 to allow a principal structure to encroach into the street side yard setback along Aiken Road (**Requirement 45', Request 34', Variance 11'**) based on the Staff Report and testimony heard today.

The vote was as follows:

Yes: Fishman, Turner, Allendorf, Jarboe, Tharp, Bergmann, and Howard

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CASE NUMBER 16CUP1010

Project Name:	Storage Plus
Location:	6456 Outer Loop
Owner:	Iverson Family Outer Loop, LLC.
Representative:	Law Office of Michael Tigue, PLLC – Michael Tigue
Project Area/Size:	4.6 acres
Existing Zoning District:	C-2, Commercial
Existing Form District:	N, Neighborhood
Jurisdiction:	Louisville Metro
Council District:	23 – James Peden
Case Manager:	Joel P. Dock, 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 S 5th Street).

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

Agency Testimony:

03:42:15 Joel Dock presented the case and referred to a PowerPoint presentation. He responded to questions from the Board (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Michael Tigue, 3205 Maple Leaf Drive, LaGrange, KY 40031

Summary of testimony of those in favor:

03:53:11 Michael Tigue spoke on behalf of the applicant and responded to questions from the Board (see staff report and recording for detailed presentation).

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04:04:04 Board Members' deliberation

04:04:35 On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with applicable policies of the Comprehensive Plan as Guideline 3, Policies 1 and 3 encourage compatibility of redevelopment with the scale and site design of nearby development and with the pattern of development, as well as discouraging non-residential expansion into residential areas. The site re-utilizes an existing min-warehouse facility to accommodate for an expansion of a non-residential use without expansion into residential areas or the need for a new site to be developed which may impact residential areas. The site is located within an area of existing commercial uses and multi-family development, and

WHEREAS, the Board further finds that the proposal is compatible with surrounding land uses and the general character of the area as the site is surrounded by commercial uses to its East and West with multi-family development nearby. The mini-warehouse component provides a storage service to nearby residents at a scale and size compatible with adjacent commercial uses and multi-family structures. The addition of automobile/truck rental enhances the potential for the site to be a "one-stop-shop" for storage needs when moving items from one location to another, and

WHEREAS, the Board further finds that necessary public facilities are being provided to serve the site as the site has direct access to Outer Loop which has a public sidewalk. The Metropolitan Sewer District has approved the preliminary plan and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community, and

WHEREAS, the Board further finds that the proposal complies with the specific standards required to obtain the conditional use permit, with the exception of item "B" where a variance was granted along the rear property line. The requirements of LDC, Section 4.2.35 have been included below:

4.2.35 Mini-warehouses

Mini-warehouses may be allowed in the C-2 District where the premises abut on a roadway classified as a collector or major or minor arterial as designated in the

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Comprehensive Plan for all of Jefferson County, Kentucky, upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. The property shall be landscaped so as to blend in with the surrounding area and shall be screened and buffered from adjacent uses of a non-industrial nature.
- B. No building, structure or pavement shall be located closer than 30 feet to side property lines or property lines abutting residential areas. This area is reserved as a landscape buffer area.
- C. No outside storage shall be allowed on the property, except for the storage of accessory recreational vehicles not exceeding 25' in length and no more than 4 shall be stored on-site at any time.**
- D. No storage of toxic or hazardous materials shall be allowed on the property.
- E. There shall be no retail or wholesale sales or distributing activities on site.
- F. No structure on the site shall be taller than one story and shall not exceed 15 feet in height (except for one freestanding sign as allowed in H below).
- G. Signs - Only one freestanding sign shall be allowed and shall conform to limits established for the form district in which the sign is located; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1010, does hereby **APPROVE** the **Modified Conditional Use Permit** for mini-warehouse, Land Development Code (LDC), section 4.2.35 with an amendment to item "c" to add "except for the storage of accessory recreational vehicles not exceeding 25' in length and no more than 4 to be stored on-site at any time," based on the Staff Report and the Board discussion, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval

- 1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall

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occur without prior approval from the Planning Commission, except for land uses permitted in the established zoning district.

2. The development shall not exceed 84,994 square feet of gross floor area for mini-warehouse space, one 266 square foot office and a 1,200 square foot apartment and garage.
3. The only permitted freestanding sign shall be located within the 30 foot LBA on Outer Loop. The sign shall not exceed 64 square feet in area per side and feet in height. No sign shall have more than two sides.
4. The sidewalk shown on the development plan shall be located on the west side of the 60 foot access easement.
5. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants or banners shall be permitted on the site.
6. No outside storage shall be allowed on the property, **except for the storage of accessory recreational vehicles not exceeding 25' in length and no more than 4 shall be stored on-site at any time.**
7. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting from the facility should not exceed two foot candles at the property line.
8. No toxic, hazardous or flammable materials shall be stored at this facility.
9. ~~The only commercial use permitted on the site is a mini-warehouse. No other C-2 commercial uses are permitted unless approved by the Planning Commission.~~
10. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan must receive full construction approval from the Jefferson County Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 W. Liberty Street).
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.

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- c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

- 11. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.

- 12. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

- 13. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.

The vote was as follows:

Yes: Fishman, Turner, Allendorf, Jarboe, Tharp, Bergmann, and Howard

04:09:24 Meeting was recessed.

04:09:46 Meeting was reconvened.

**BOARD OF ZONING ADJUSTMENT MINUTES
JUNE 6, 2016**

PUBLIC HEARING

CASE NUMBER 16CUP1007

Project Name:	None
Location:	4931 South 4th Street
Owner(s):	Elvia Gonzales
Applicant(s):	Elvia Gonzales
Representative(s):	Elvia Gonzales
Project Area/Size:	400 square feet
Existing Zoning District:	R-5, Residential
Existing Form District:	TN, Traditional Form District
Jurisdiction:	Louisville Metro
Council District:	21 – Dan Johnson
Case Manager:	Jon E. Crumbie, Planning & Design Coordinator

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

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

Agency Testimony:

04:10:05 Jon Crumbie presented the case and referred to a PowerPoint presentation. He responded to questions from the Board (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Elvia Gonzales, 4931 S 4th Street, Louisville, KY 40214
Cesar Garcia, 4931 S 4th Street, Louisville, KY 40214

Summary of testimony of those in favor:

04:17:40 Cesar Garcia translated for the applicant, his mother. Mr. Garcia confirmed there is an existing apartment in the structure and it has already been

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hooked up with MSD. He answered further questions from the Board regarding the structure (see staff report and recording for detailed presentation).

04:24:48 Mr. Crumbie advised accessory apartments can be rented to anyone, not just family members.

04:26:14 Board Members' deliberation

04:30:33 On a motion by Member Jarboe, seconded by Member Fishman, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the policies of the Comprehensive Plan. No new lighting will be added. Parking is provided adjacent to the detached garage, and

WHEREAS, the Board further finds that the land use is compatible with the existing development of the area including such factors as height, bulk, scale, noise, odor, drainage, dust, lighting, and appearance, and

WHEREAS, the Board further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community. Metro Public Works has approved the preliminary development plan, and

WHEREAS, the Board further finds that there are four requirements for an accessory apartment and all have been met.

- A. The principal and accessory dwellings shall be owned by the same person(s). Occupancy of the accessory unit shall occur only while the property owner(s) resides in the principal dwelling on the premises.
- B. The accessory apartment shall be no greater than 650 sq ft or 30% of the floor area of the principal residence, whichever is greater.
- C. If the accessory apartment is located in a freestanding structure, it shall not exceed the height of the principal residence. In the TNFD, permissible height shall be as allowed by the form district regulation, unless the Board approves a differing height. In all other form districts, if the freestanding structure is

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located within 25 feet of a property line, the height of the structure shall not exceed the average height of accessory structures on abutting parcels or 15 feet, whichever is greater, unless the Board finds that a different height limit is appropriate.

- D. Sites having accessory apartments shall provide off-street parking for the principal and accessory apartment as follows:
1. Neighborhood Form District - at least three off-street spaces provided on the lot, no more than two spaces outdoors;
 2. Traditional Neighborhood - at least one off-street space provided on the lot; and
 3. Other form districts - at least two off-street spaces provided on the lot; the Board may require additional parking spaces as appropriate; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1007, does hereby **APPROVE** the Conditional Use Permit for an accessory apartment in an R-5 zoning district and the request to allow the applicant to not provide additional landscaping based on the applicant's testimony, the Staff Report, and the confirmation that all guidelines have been met, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for an accessory apartment without further review and approval by the Board.
3. The use of the accessory apartment shall be limited to family members only.

The vote was as follows:

**BOARD OF ZONING ADJUSTMENT MINUTES
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Yes: Fishman, Turner, Allendorf, Jarboe, Tharp, Bergmann, and Howard

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ADJOURNMENT

The meeting adjourned at approximately 1:15 p.m.

Chair

Secretary