

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

JANUARY 12, 2015

A meeting of the Louisville Metro Board of Zoning Adjustment was held at 8:35.A.M. on Monday, January 12, 2015, 514 West Liberty Street, Old Jail Building, Old Jail Court Room, Louisville, Kentucky.

Members present:

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

Members absent:

Dean Tharp

Staff members present:

John Carroll, Legal Counsel
Steve Hendrix, Planning Supervisor
Sherie Long, Landscape Architect
Jon Crumie, Planner II
Latondra Yates, Planner II
Beth Stevenson, Management Assistant

*Member Bergmann arrived at 8:48 a.m.

The following cases were heard:

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APPROVAL OF MINUTES

1.) DECEMBER 15, 2014 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

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

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on December 15, 2014.

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

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Tharp and Bergmann.

ABSTAINING: No one.

2.) OCTOBER 6, 2014 CORRECTION OF THE BOARD OF ZONING ADJUSTMENT MEETING MINUTES FOR CASE NUMBERS 14APPEAL1003 & 14APPEAL1004

DISCUSSION:

John Carroll, the Board's legal counsel, stated that Member Bergmann was recorded as voting "yes" for Case Numbers 14APPEAL1003 & 14APPEAL1004 on October 6, 2014, when he recused himself.

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

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **CORRECT** the minutes of the meeting held on October 6, 2014 for Case Numbers 14APPEAL1003 & 14APPEAL1004.

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

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Tharp and Bergmann.

ABSTAINING: No one.

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2014 ANNUAL REPORT

Steve Hendrix, Planning Supervisor, said the annual report is for informational purposes.

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NON-HEARING VARIANCE:

CASE NO. 14VARIANCE1111

Request: Variance from the Land Development Code to allow the existing house to encroach into the required side yard, resultant of a proposed rear addition to the existing house.

Project Name: Rear Addition

Location: 1027 East Breckinridge Street

Owners: Daniel & Amanda D. Montgomery
1027 East Breckinridge Street
Louisville, KY 40204

Applicant: Kyle Noltemeyer
122 N. Peterson Avenue
Louisville, KY 40206

Representative: Studio Kremer Architects
Scott Kremer
3258 Ruckriegel Parkway
Louisville, KY 40299

Jurisdiction: Louisville Metro

COUNCIL DISTRICT: 4—David Tandy
Staff Case Manager: Regina Thomas, Associate Planner

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

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An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact customer service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the January 12, 2015 public hearing proceedings.

DISCUSSION:

Steve Hendrix, Planning Supervisor, said the applicant received the required signatures from adjacent property owners.

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

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

WHEREAS, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the addition is to the rear of the house and the lot is enclosed by a wooden privacy fence; and

WHEREAS, the Board finds that the variance will not alter the essential character of the general vicinity because the addition will be constructed in the footprint of an existing one story addition; and because the exterior material will match the existing house; and because the current house has a second level this addition will extend from; and because there are other similar style homes in the area; and

WHEREAS, the Board finds that the variance will not cause a hazard or nuisance to the public because the proposal is an addition to the existing house and will be located in the footprint of the existing addition which will be removed; and because the addition will be similar to what existed but will be new; and

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WHEREAS, the Board finds that the variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the lots in the area are narrow; and because the current owners did not create the lot or the placement of the house; and

WHEREAS, the Board finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because of the lot size and location of the existing structure; and because the existing structure will be removed and rebuilt; and because not granting the variance will not allow the owner to expand the house for their growing family; and

WHEREAS, the Board finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought because the home was built in the early 1900's, so the current owners are not responsible for the size or the layout of the lot and its structures;

NOW, THEREFORE, BE IT RESOLVED, that the Board does hereby **GRANT** the variance to allow the existing house and proposed addition to be 0 feet from the east side property line;

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

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

NO: No one.

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Tharp
and Bergmann.**

ABSTAINING: No one.

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NON-HEARING VARIANCE:

CASE NO. 14VARIANCE1114

Request: Variance from the Land Development Code to allow an existing house to encroach into the southwest side yard, resultant of a proposed 1 ½ story rear addition to the existing house.

Project Name: Rear Addition

Location: 2426 Ransdell Avenue

Owners: Lee T. White & Katherine Kelly White Bryant
2426 Ransdell Avenue
Louisville, KY 40204

Applicant: Same as owners

Representative: Charlie Williams Design, Inc.
Charlie Williams
1626 Windsor Place
Louisville, KY 40204

Jurisdiction: Louisville Metro

COUNCIL DISTRICT: 8—Tom Owen
Staff Case Manager: Regina Thomas, Associate Planner

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

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact customer service staff to view the recording or to obtain a

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copy. The recording of this hearing will be found on the CD of the January 12, 2015 public hearing proceedings.

DISCUSSION:

Steve Hendrix, Planning Supervisor, said the applicant received the required signatures from adjacent property owners.

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

WHEREAS, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; and discussion at the public hearing that the applicant is requesting a variance from the Land Development Code to allow the existing house to encroach into the southwest side yard, resultant of a proposed 1 ½ story rear addition to the existing house; and

WHEREAS, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the addition is to the rear of the house and the addition is inset from the edge of the existing house by 5 inches; and because no further encroachment will occur with the proposed addition location; and

WHEREAS, the Board finds that the variance will not alter the essential character of the general vicinity because the addition will match the exterior of the existing stucco house with smooth hardie plank siding and shingle roofing; also, because the proposal has been reviewed and approved by the Cherokee Historic Landmarks and Preservation Districts Commission; and

WHEREAS, the Board finds that the variance will not cause a hazard or nuisance to the public because the proposal is an addition to the rear of the existing house; and

WHEREAS, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the size and the layout of the

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structures on the lot will not allow the applicant to expand the existing house for needed additional square footage with a minimum amount of encroachment; and because there are other lots in the neighborhood with the same layout of the structures and like additions to the rear of structures; and

WHEREAS, the Board finds that the variance arises from special circumstances which do not generally apply to land in the general vicinity because the current owners are not responsible for the existing location of the house and layout of the property; and

WHEREAS, the Board finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because of the lot size and location of the existing structure; and because the existing structure will be more intrusive on the adjacent property than the proposed addition; and because the owners' would not be able to expand their home if the variance is not granted; and

WHEREAS, the Board finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought because the house was built in 1927 per PVA records, prior to the current zoning regulations; and because the current owners are not responsible for the size or the layout of the existing structures on the lot;

NOW, THEREFORE, BE IT RESOLVED, that the Board does hereby **GRANT** the variance to allow the existing house and proposed 1 ½ story addition to be 1 ft. 10 inches from the southwest side property line;

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

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

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Tharp and Bergmann.

ABSTAINING: No one.

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CASE NO. 14VARIANCE1098

Request: Category 2B review, variances and waivers from the Land Development Code to allow the placement and design of a proposed structure and parking

Project Name: Etscorn Brothers—11816 Shelbyville Road

Location: 11816 Shelbyville Road

Owner: Etscorn Brothers, LLC
Bill Etscorn
3933 Bardstown Road
Louisville, KY 40218

Applicant: Same as owner

Attorney: Bardenwerper Talbott & Roberts
Nick Pregliasco, Esq.
1000 N. Hurstbourne Pkwy.
Louisville, KY 40222

Representative: Land Design & Development
Ann Richard, RLA
503 Washburn Avenue
Louisville, KY 40222

Jurisdiction: City of Middletown

COUNCIL DISTRICT 19—Julie Denton

Staff Case Manager: Sherie' Long, Landscape Architect

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

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and was available to any interested party prior to the public hearing. (The staff report is part of the

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case file maintained at the Planning and Design Services offices located at 444 S. 5th Street).

Agency Testimony:

Staff Case Manager, Sherie' Long discussed the case summary, standard of review and staff analysis from the staff report. She explained the changes to the plan and increased landscaping the Board requested.

The following spoke in favor of this request:

Nick Pregliasco, Attorney.

Summary of testimony of those in favor:

Nick Pregliasco, the applicant's attorney, said they added a triangular landscaped area; added two ILA's; removed the 10 ft. asphalt paved area and moved the building for alignment as the Board requested. He said they reduced the impervious surface by 20%.

The following spoke neither for nor against the request:

No one.

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

No one.

The following spoke in opposition to this request:

No one.

Summary of testimony of those in opposition:

No one.

Deliberation:

The Board was pleased with the changes the applicant made.

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Variance #1—To allow a proposed structure to exceed the maximum setback and not be built at the right-of-way line on both Shelbyville Road and Daisy Lane:

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

WHEREAS, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a variance from the Land Development Code (LDC), Section 5.2.4.C.3.c and 5.5.1.A.2, to allow a proposed structure to exceed the maximum setback and not to be built at the right-of-way line on both Shelbyville Road and Daisy Lane; and

WHEREAS, the Board finds that the requested variance will not adversely affect the public health, safety or welfare since the existing and proposed locations of the structures and parking will not block site triangle or views at the intersection; nor will the proposed or existing structures encroach into any utility, access or drainage easements; and because the site has access to all utilities, including sanitary sewer and potable water; and

WHEREAS, the Board finds that the variance will not alter the essential character or the general vicinity because the applicant's proposal is compatible with the surrounding development; plus, the existing and proposed locations of the structures will be setback from the street similar to the structures to the east and west of the development; and because the proposed development is an adaptive reuse of an existing commercial site; and

WHEREAS, the Board finds that the variance will not cause a hazard or nuisance to the public because the layout of the development provides safe pedestrian and vehicular access to Shelbyville Road and Daisy Lane; and because one of the existing curb cuts will be eliminated when the site is redeveloped; and because there will be additional tree planting along the street frontage and additional tree planting along the rear of the development to reduce the impact on the adjacent residential properties; and

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WHEREAS, the Board finds that variance will not allow an unreasonable circumvention of the zoning regulations because the requirement to build to the corner does not fit the character of the general vicinity; and because the current general character of the area includes parking located in front of the buildings, and the buildings being setback 35 feet or more from the right-of-way line; and because locating the new building behind the existing structure matches the current character of the area; and

WHEREAS, the Board finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the site is located in a traditional commercial setting where the businesses are located right at the back of the sidewalk or at the right-of-way line with the parking located either on the street or in the rear of the buildings, but instead the locations of the existing and proposed buildings and parking are similar to the other commercial building in the general vicinity of this block face; and

WHEREAS, the Board finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the site slopes toward the street and away from the building and to locate the new addition at the corner would be more costly than the rear location behind the existing buildings which is relatively flat; and because the applicant would have to relocate the electric service and relocate the curb cut; and

WHEREAS, the Board finds that the circumstances are not the result of actions of the applicant subsequent to the adoption of the zoning regulation from which relief is sought because the site was developed prior to the current regulations; and because the property has site restrictions due to the sloped terrain and the fact that the applicant is attempting to redevelop the site with minimal alterations;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow a proposed structure to be 62 feet from the Shelbyville Road property line; and 8 feet from the Daisy Lane property line.

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

NO: No one.

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

ABSTAINING: No one.

Variance #2—To allow a proposed structure and existing structure to encroach into the required 25 foot street side yard along Daisy Lane:

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

WHEREAS, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a variance from the LDC, Section 5.7.1.B.2 and Table 5.3.1 to allow a proposed structure and existing structure to encroach into the required 25 foot street side yard along Daisy Lane; and

WHEREAS, the Board finds that the requested variance will not adversely affect the public health, safety or welfare since the proposed location of the structure will not block the site triangle or views at the intersections; nor will the proposed or existing structures encroach into any utility, access or drainage easements; and because the site has access to all utilities, including sanitary sewer and potable water; and

WHEREAS, the Board finds that the variance will not alter the essential character of the general vicinity because the proposal locates the new addition at the same setback as the existing adjacent building to the north; and because the existing residential properties to the south are setback over 25 feet from the right-of-way; however, the addition of an 8-foot privacy fence and tree planting between the adjacent residential properties and the proposed building addition will lessen the impact of the setback; and

WHEREAS, the Board finds that the variance will not cause a hazard or nuisance to the public because the new building façade adjacent to the street will match

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the residential character of the area; and because the addition of street trees will enhance the character of the street; and

WHEREAS, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the proposed structure's façade is aligned with the existing structure to the north; and because it is reasonable to request a variance from the required 25 ft. setback since the existing structure is already only 8 feet from the property line; and

WHEREAS, the Board finds that the variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because this site has been a commercial site prior to this proposal; and because it has established buildings with established setbacks which were based on the subdivision regulation at the same time the lots were created; and because the applicant has retained the original buildings and improving the residential character of the facades which will enhance the site; and

WHEREAS, the Board finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the existing established setback along Daisy Lane is 8 feet; and because if the applicant were required to meet the 25 foot setback, it would deprive the applicant of 680 square feet of building which would either need to be relocated to the interior of the site or eliminated; and

WHEREAS, the Board finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought because the existing setback was established when the existing structures were built in 1935; and because the proposed building setback is matching the existing building setback making it look more uniform;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow a proposed structure and an existing structure to be 8 feet from the street side property line along Daisy Lane.

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

NO: No one.

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

ABSTAINING: No one.

Variance #3—To allow proposed structure and dumpster to encroach into the required 35 foot rear yard setback:

On a motion by Member Allendorf, seconded by Member Bergmann, with a correction in the staff report for the proposed building to be 23 feet from the rear property line (not 27 feet) the following resolution was adopted:

WHEREAS, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a variance from the Land Development Code, Section 5.2.4.C.3.f to allow proposed structure and dumpster to encroach into the required 35 foot rear yard setback; and

WHEREAS, the Board finds that the requested variance will not adversely affect the public health, safety or welfare since the proposed location of the new building and dumpster area will not encroach into any utility, access or drainage easements; and because the site has access to all utilities including sanitary sewers and potable water; and because the proposed one story building will be screened from view of the residential property to the south by an 8-ft. tall privacy fence and additional trees; and

WHEREAS, the Board finds that the variance will not alter the essential character of the general vicinity because the applicant's proposal provides an 8-foot screen fence and additional trees between the new building and the residential property to the south; and because the new building is to be one story while the surrounding residential and existing commercial buildings are 1 ½ stories; and because the façade materials for the dumpster enclosure and new building will be similar to the existing structures in the general vicinity; and

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WHEREAS, the Board finds that the variance will not cause a hazard or nuisance to the public because an 8 foot tall privacy fence and trees will be provided adjacent to the rear property line to visually screen the dumpster and the proposed building; and because the existing pavement will be removed to allow green space between the adjacent property and the development which will allow absorption of water runoff; and

WHEREAS, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the applicant is providing a 15-foot landscape buffer area between the proposed building and the adjacent residential property; and because the proposed building will be located 23 feet from the rear property line; and the dumpster located 15 feet from the rear property line and will be enclosed and screened by an 8-ft. tall privacy fence to lessen the impact of being so close to the residential property; and

WHEREAS, the Board finds that the variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the site is located in a transition zone between a Town Center Form District and a Neighborhood Form District where the setback along the rear property line is greater than a typical commercially zoned property; and because the applicant is attempting to adapt an existing commercial site to a new use but still retain the existing structures and maintain the residential character; and

WHEREAS, the Board finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the proposed building location and size would not be possible if the variance is not granted;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow the proposed building to be 23 feet from the rear property line; and the dumpster to be 15 feet from the rear property line.

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

NO: No one.

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

ABSTAINING: No one.

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Waiver #1—To allow the proposed parking to be located in the front of the building and closer to the right-of-way line than the principal structure:

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

WHEREAS, the Board finds from the file of this case, the staff report, the revised site and landscape plans; the PowerPoint presentations; the evidence including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a waiver from the Land Development Code, Section 5.5.1.A.3.a and 5.9.2.C.4 to allow the proposed parking to be located in front of the building and closer to the right-of-way line than the principal structure; and

WHEREAS, the Board finds that the requested waiver will not adversely affect adjacent property owners because the proposed location of the parking will be similar to the existing parking on the adjacent property to the east and west; and because the proposed 3 foot plantings will screen the parking from the street view and lessen the visual impact on the surrounding residential properties; and because the applicant increased the amount of landscaping at the Board's request as shown on the PowerPoint presentation at today's hearing; and

WHEREAS, the Board finds that the waiver will not violate specific guidelines of Cornerstone 2020 because this is an existing development where the parking has been located between the front of the existing building and Shelbyville Road right-of-way since the early 2000's; and because there are commercial properties on both sides of Shelbyville Road which have parking located between the buildings and Shelbyville Road, so this is the established pattern; and

WHEREAS, the Board finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant because they are retaining as much of the existing site pattern as possible; and

WHEREAS, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land because the applicant is proposing to retain the existing components-pavement and buildings-with minor modifications in addition to constructing a new building for the adaptive reuse of the land; and because not granting the waiver would be a

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hardship on the applicant to give up significant amounts of parking to comply with the current Land Development Code;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waiver to allow the proposed parking to be located in front of the building and closer to the right-of-way line than the principal structure **ON CONDITION** that the landscape plan shown on the PowerPoint presentation at today's hearing be incorporated into the development.

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

NO: No one.

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

ABSTAINING: No one.

Waiver #2—To not provide the required 3-foot masonry wall across the front of the parking area located adjacent to both the Shelbyville Road and the Daisy Lane street frontages:

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

WHEREAS, the Board finds from the file of this case, the staff report, the revised site and landscape plans; the PowerPoint presentations; the evidence including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a waiver from the Land Development Code, Section 5.5.1.A.3 to not provide the required 3-foot wall across the front of the parking area located adjacent to both the Shelbyville Road and the Daisy Lane street frontages; and

WHEREAS, the Board finds that the requested waiver will not adversely affect adjacent property owners because none of the adjacent properties have 3-foot tall masonry walls so it would not look consistent with the established pattern in the area; and because the applicant will be providing a hedge and other landscaping in place of the required wall; and

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WHEREAS, the Board finds that the waiver will not violate the Comprehensive Plan because the applicant will be providing a hedge and other landscaping in place of the required 3-ft. tall masonry wall; and

WHEREAS, the Board finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant because the proposal is meeting the Land Development Code to the best of their ability given that this is an adaptive reuse of an existing commercial development whose site design is consistent with the adjacent properties; and because the applicant will be providing a hedge and other landscaping in place of the required 3-ft. tall masonry wall; and

WHEREAS, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land because other commercial properties do not have masonry walls; and because the applicant has chosen to provide a hedge and other natural landscaping for beautification of the area; and because a 3-ft. tall masonry wall is required in the Traditional Form District while the subject site is located in distinctly suburban area;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waiver to not provide the required 3-ft. tall wall across the front of the parking area located adjacent to both the Shelbyville Road and Daisy Lane street frontages **ON CONDITION** that the landscape plan shown on the PowerPoint presentation at today's hearing be incorporated into the development.

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

NO: No one.

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

ABSTAINING: No one.

Waiver #3—To not provide a pedestrian connection from the building to the public sidewalk:

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

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WHEREAS, the Board finds from the file of this case, the staff report including the standard of review, the revised site and landscape plans; the PowerPoint presentations; the evidence including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a waiver from the Land Development Code, Section 5.9.2.A.1.b.i to not provide a safe pedestrian connection from the building to the public sidewalk; and

WHEREAS, the Board finds that the requested waiver will not adversely affect adjacent property owners since a pedestrian connection is not possible or safe due to the difference in grade from the site to the public sidewalk; and because the adjacent property to the east does not have a current connection to the public sidewalk; and

WHEREAS, the Board finds that the waiver will not violate specific guidelines of Cornerstone 2020 because Guideline 9, Policy 1 states that new development should provide pedestrian connections, where appropriate, for the movement of pedestrians, bicyclists and transit users with walkways for access to public transportation stops, but because of the steep slope, is not appropriate for a sidewalk connection at this location; and

WHEREAS, the Board finds that the extent of the waiver is the minimum necessary to afford relief to the applicant since the connection cannot be built without providing a switch-back system to transition from the site to the public sidewalk; and

WHEREAS, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant due to the terrain of the site where the sidewalk would be required to be built;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waiver to not provide a pedestrian connection from the building to the public sidewalk **ON CONDITION** that the landscape plan shown on the PowerPoint presentation at today's hearing be incorporated into the development.

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

NO: No one.

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

ABSTAINING: No one.

Waiver #4—To not provide the required building façade treatment (use of windows, columns, pilasters, piers, variation of materials, entrances, storefront windows, and other animating features) along 75% of the façade length on the façade facing the front yard of the adjacent residential property:

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

WHEREAS, the Board finds from the file of this case, the staff report, the revised site and landscape plans; the PowerPoint presentations; the evidence including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a waiver from the Land Development Code, Section 5.6.1.A, to not provide the required building façade treatment for animating features along 75% of the façade length which faces the front yard, adjacent to residential property; and

WHEREAS, the Board finds that the requested waiver will not adversely affect adjacent property owners since the additional trees and 8-ft. tall solid privacy fence and trees are being provided to screen the new building from view of the adjacent residential property; and

WHEREAS, the Board finds that the waiver will not violate the Comprehensive Plan because an 8-ft. tall solid privacy fence and trees are being provided for screening; and

WHEREAS, the Board finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant because an 8-ft. tall privacy fence and trees are being provided for screening; and because the applicant is providing animating features on all other facades; and

WHEREAS, the Board finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-

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compliance with the requirements to be waived because the applicant is providing animating features on all other facades; and because the applicant is maintaining the residential look of the building as much as possible; and because the rear façade will not be visible to the adjoining property owners because of the Daisy Lane landscaping and the 8-ft. tall solid privacy fence and landscaping being provided adjacent to the rear property line;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waiver to not provide the required building façade treatment along 75% of the façade length facing the front yard of the adjacent residential property **ON CONDITION** that the landscape plan shown on the PowerPoint presentation at today's hearing be incorporated into the development.

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

NO: No one.

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

ABSTAINING: No one.

Waiver #5—To reduce the required 35 ft. Landscape Buffer Area (LBA) to 15 feet:

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

WHEREAS, the Board finds from the file of this case, the staff report, the revised site and landscape plans; the PowerPoint presentations; the evidence including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a waiver from the Land Development Code, Section 5.7.1.B.3.a and Table 10.2.3, to reduce the required 35 ft. Landscape Buffer Area to 15 feet; and

WHEREAS, the Board finds that the requested waiver will not adversely affect adjacent property owners since a 15 foot LBA is being provided between the residential property and the more intense commercial property which incorporates an 8-ft. tall solid fence and tree plantings; and

WHEREAS, the Board finds that the waiver will not violate specific guidelines of Cornerstone 2020 because Guideline 3, Policy 9, calls for the protection of the character of residential areas, roadway corridors and public spaces from visual

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intrusions and mitigate when appropriate; and because 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; and because 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; and because Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban and rural areas; and because Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses; the intent of the 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 waivers are therefore compatible with the intent of the landscape buffers to protect and mitigate the impact of development within the form district; and

WHEREAS, the Board finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since a 15 foot buffer is being provided which will contain all of the required screening and tree plantings; and

WHEREAS, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship because the applicant is proposing to retain the existing components such as the pavement and buildings with minor modifications, in addition to constructing a new building; and because it would be a hardship to give up significant amounts of parking to comply with the current Land Development Code;

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RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waiver to reduce the required 35 ft. Landscape Buffer Area to 15 feet **ON CONDITION** that the landscape plan shown on the PowerPoint presentation at today's hearing be incorporated into the development.

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

NO: No one.

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

ABSTAINING: No one.

Waivers #6 & #7—To allow the proposed pavement to encroach into the 25 foot Scenic Corridor Buffer along the Shelbyville Road frontage and along the first 50 feet of the Daisy Lane frontage from the intersection; and to not provide the 3 foot berm:

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

WHEREAS, the Board finds from the file of this case, the staff report, the revised site and landscape plans; the PowerPoint presentations; the evidence including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a waiver from the Land Development Code, Section 10.3.6.A.1 and 10.3.6.A.4 to allow the proposed pavement to encroach into the 25 foot Scenic Corridor Buffer along the Shelbyville Road frontage and along the first 50 feet of the Daisy Lane frontage from the intersection; and a waiver from the Land Development Code, Section 10.3.6.A.6 and Table 10.3.2 to not provide the 3 foot berm; and

WHEREAS, the Board finds that the waiver will not adversely affect adjacent property owners because this is an existing development and the Landscape Buffer Areas and Scenic Corridor are currently not being provided; and

WHEREAS, the Board finds that the waiver will not violate the Comprehensive Plan because the site was developed prior to the adoption of the current Comprehensive Plan; and

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

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proposing to add a building and leave the existing vehicular use area in place and re-stripe the parking spaces; and

WHEREAS, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land because the applicant will be retaining the existing components such as the pavement and existing buildings with minor modifications and the addition of a 3600 sq. ft. building; and because it would create a hardship on the applicant to give up significant amounts of parking to comply with the current Land Development Code;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waivers **ON CONDITION** that the landscape plan shown on the PowerPoint presentation at today's hearing be incorporated into the development.

The waivers allow:

1. The proposed pavement to encroach into the 25 foot Scenic Corridor Buffer along the Shelbyville Road frontage and along the first 50 feet of the Daisy Lane frontage from the intersection.
2. The applicant to not provide the 3 foot berm.

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

NO: No one.

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

ABSTAINING: No one.

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CASE NO. 14VARIANCE1107

Request: Variance from the Land Development Code to allow a proposed garage to encroach into the required 5-ft. rear yard.

Project Name: Addition and garage

Location: 521 Belgravia Court

Owners: David & Peggy Heimerdinger
521 Belgravia Court
Louisville, KY 40208

Applicants: Same as owners

Representative: Anne DelPrince, Architect
640 Country Club Road
Louisville, KY 40206

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 6—David James

Staff Case Manager: Latondra Yates, Planner II

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

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

Agency Testimony:

Staff Case Manager, Latondra Yates discussed the case summary, standard of review and staff analysis from the staff report. She said the proposal is for the removal of an existing addition and deck and the construction of a 210 sq. ft. addition, 250 sq. ft. screened porch and 1 ½ story garage. The applicant has

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received the Certificate of Appropriateness (14COA1183-OL) from the Landmarks Commission on September 23, 2014.

The following spoke in favor of this request:

Anne DelPrince, Architect.

David Heimerdinger, owner.

Summary of testimony of those in favor:

Anne DelPrince, the applicant's architect said the neighbors' are aware of the layout and sharing the driveway in back of the garage. Ms. DelPrince agreed to submit the shared access agreement to staff prior to receiving a construction permit as a condition of approval.

David Heimerdinger said he has a shared access agreement which will allow him to access the new garage.

The following spoke neither for nor against the request:

No one.

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

No one.

The following spoke in opposition to this request:

No one.

Summary of testimony of those in opposition:

No one.

Deliberation:

Chair Proffitt reminded the Board to include the condition of approval agreed upon into the motion.

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the January 12, 2015 public hearing proceedings.

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Variance—To allow a proposed garage to encroach into the required 5-ft. rear yard:

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

WHEREAS, the Board finds from the file of this case, the staff report, the site plan; the PowerPoint presentations; the evidence including the applicant's justification, testimony and discussion at the public hearing that the applicant is requesting a variance from Section 5.4.1.E.2. of the Land Development Code to allow a proposed garage to encroach into the 5 ft. required setback; and

WHEREAS, the Board finds that the requested variance will not adversely affect the public health, safety and welfare because this is a private residence and the applicant has a shared access agreement; and

WHEREAS, the Board finds that the variance will not alter the essential character of the general vicinity because properties in Old Louisville are close to each other and will be consistent with the neighborhood density and character; and

WHEREAS, the Board finds that the variance will not cause a hazard or nuisance to the public because this is private property and the owner has a shared access agreement; and

WHEREAS, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because this property is located in Old Louisville, where houses and garages are fairly close together; and because the owner received a Certificate of Appropriateness by the Landmarks Commission; and

WHEREAS, the Board finds that the variance arises from special circumstances which do not generally apply to land in the general vicinity due to the existing property lines and limited space; and

WHEREAS, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land because the layout of the garage is the best area considering the limited space; and

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WHEREAS, the Board finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought because the owner did not create the property lines or layout of the existing structures;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow a proposed garage to be 3 feet from the rear, north property line **ON CONDITION** that the owner submit the shared access agreement to staff prior to receiving a building permit.

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

NO: No one.

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

ABSTAINING: No one.

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NEW BUSINESS

CASE NO. 14VARIANCE1108

Request: Variance from the Development Code to allow an existing detached garage to be 3 feet from the north side property line resultant of a deck addition.

Project Name: Deck

Location: 308 Monohan Drive

Owners: Richard & Beth Stremel
308 Monohan Drive
Louisville, KY 40207

Applicants: Same as owners

Jurisdiction: City of St. Matthews

COUNCIL DISTRICT 26—Brent Ackerson

Staff Case Manager: Sherie' Long, Landscape Architect

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

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

Agency Testimony:

Staff Case Manager, Sherie' Long discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Beth Stremel.

Summary of testimony of those in favor:

Beth Stremel the owner of the property said she is present for any questions.

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The following spoke neither for nor against the request:

No one.

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

No one.

The following spoke in opposition to this request:

No one.

Summary of testimony of those in opposition:

No one.

Deliberation:

Board of Zoning Adjustment deliberation.

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the January 12, 2015 public hearing proceedings.

Variance—To allow an existing detached garage to be 3 feet from the north side property line:

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

WHEREAS, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a variance from the Development Code, Article 9, Section 9.2.P, to allow an existing detached garage, resultant of a deck addition to be 3 feet from the north side property line (requirement 5 feet, variance of 2 feet); and

WHEREAS, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the detached garage is existing and

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located in the rear of the parcel; and because the location of the existing garage will remain the same; and because the variance request is necessary because the applicant is replacing the existing deck and adding additional deck area onto the rear of the house, which reduces the distance between the garage and the house to less than 15 feet; and

WHEREAS, the Board finds that the variance will not alter the essential character of the general vicinity because the structure is an existing detached garage and is located at the rear of the property; and is compatible with the architecture throughout the neighborhood; and because most lots in the neighborhood have rear detached garages; and

WHEREAS, the Board finds that the variance will not cause a hazard or nuisance to the public because the detached garage is existing and located at the rear of the property; and

WHEREAS, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the structure only encroaches into a small portion of the required side yard; and because it is an existing condition; and

WHEREAS, the Board finds that the variance arises from special circumstances because the deck addition will reduce the distance between the structures to less than the required 15 feet; and because the required detached garage setback will be increased from 3 feet to 5 feet; therefore, to build the new deck addition, a variance of 2 feet is needed for the existing detached garage to remain where currently located; and

WHEREAS, the Board finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the existing detached garage would need to be either moved or removed and rebuilt to meet the required 5 foot side yard setback; also because the new addition could not be built as proposed; and

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow an existing detached garage, resultant of a deck addition to be 3 feet from the north side property line.

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

NO: No one.

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

ABSTAINING: No one.

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NEW BUSINESS

CASE NO. 14VARIANCE1110

Request: Variances from the Land Development Code to allow a reduction in the required front yard.

Project Name: Meremont at Long Run

Location: 1807, 1809, 1811, 1813, 1815 and 1817 Meremont Ridge Road

Owner: Boland Maloney Realty Co.
James M. Boland, V.P.
4010 Collins Lane
Louisville, KY 40245

Applicant: Same as owner

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

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 19—Julie Denton
Staff Case Manager: Jon Crumbie, Planner II

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

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

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Agency Testimony:

Staff Case Manager, Jon Crumbie discussed the case summary, standard of review and staff analysis from the staff report. He said the applicant is requesting the variances for a reduction in the front yard due to the topography.

The following spoke in favor of this request:

Kathy Linares.

Summary of testimony of those in favor:

Kathy Linares, the applicant's representative, said they would like some of the rear yards to be flat for the walk out basements, since there are steep slopes.

The following spoke neither for nor against the request:

No one.

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

No one.

The following spoke in opposition to this request:

No one.

Summary of testimony of those in opposition:

No one.

Deliberation:

Board of Zoning Adjustment deliberation.

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the January 12, 2015 public hearing proceedings.

Variences—To allow a reduction in the required 30 ft. front yard:

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

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WHEREAS, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting variances from the Land Development Code to allow a reduction in the required front yard to 25 feet (requirement 30 feet; variance of 5 feet); and

WHEREAS, the Board finds that the requesting variances will not adversely affect the public health, safety or welfare because there will still be ample front yards; and because the reduction will not be an obvious change and will allow provisions for utilities in front of the home, but most importantly, is needed due to the existing steep grade to keep the homes from being greater than 2 stories at the rear; and

WHEREAS, the Board finds that the variances will not alter the essential character of the general vicinity because the front yard setback will be uniform along the 6 lots and is not a noticeable difference; and because

WHEREAS, the Board finds that the variances will not cause a hazard or nuisance to the public because the encroachment will not be noticeable from the street and will not create a problem for pedestrians or motorists; and because it will reduce the height of the rear wall of the homes (a 1 story with a lower level walkout) and will therefore enhance to neighborhood;

WHEREAS, the Board finds that the variances will not allow an unreasonable circumvention of the zoning regulations from which relief is sought due to the topography (steep slopes) of the lots causes the need to reduce the required front yard; and since this situation is existing, the granting of the variance will allow the homes to have a standard walkout basement without the need for retaining walls;

WHEREAS, the Board finds that the variances arise from special circumstances which do not generally apply to land in the general vicinity or the same zone due to the constraints of the property; and

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WHEREAS, the Board finds that the strict application of the provisions of the regulations would create an unnecessary hardship on the applicant because the size and design of the structures and due to the steep slopes; and

WHEREAS, the Board finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought due the existing topography with steep slopes and the desire to have flat space in the rear yards;

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

The variances allow:

1. A reduction in the front yard to 25 feet at 1807 Meremont Ridge Road, Lot 149.
2. A reduction in the front yard to 25 feet at 1809 Meremont Ridge Road, Lot 150.
3. A reduction in the front yard to 25 feet at 1811 Meremont Ridge Road, Lot 151.
4. A reduction in the front yard to 25 feet at 1813 Meremont Ridge Road, Lot 152.
5. A reduction in the front yard to 25 feet at 1815 Meremont Ridge Road, Lot 153.
6. A reduction in the front yard to 25 feet at 1817 Meremont Ridge Road, Lot 154.

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

NO: No one.

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

ABSTAINING: No one.

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NEW BUSINESS

CASE NO. 14VARIANCE1109

Request: Variance from the Land Development Code to allow a proposed addition to exceed the required infill front yard setback.

Project Name: Kitchen Expansion

Location: 4308 Lowe Road

Owner: John Owens
4308 Lowe Road
Louisville, KY 40220

Applicant: Same as owner

Jurisdiction: City of Cambridge

COUNCIL DISTRICT 18—Marilyn Parker

Staff Case Manager: Sherie' Long, Landscape Architect

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

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

Agency Testimony:

Staff Case Manager, Sherie' Long discussed the case summary, standard of review and staff analysis from the staff report. She said the applicant is proposing to expand the kitchen and the materials used will match the existing house.

The following spoke in favor of this request:

John Owens.

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Summary of testimony of those in favor:

John Owens, the owner, said he will be building in the grassy area and extend out 7 feet, 6 inches. He said he has already found the brick necessary to expand the kitchen.

The following spoke neither for nor against the request:

No one.

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

No one.

The following spoke in opposition to this request:

No one.

Summary of testimony of those in opposition:

No one.

Deliberation:

Board of Zoning Adjustment deliberation.

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the January 12, 2015 public hearing proceedings.

Variance—To allow a proposed addition to exceed the required infill front yard setback:

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

WHEREAS, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a variance from the Land Development Code, Chapter 5, Section 5.4.2.C.1, to allow a proposed addition to exceed the required infill front yard setback; and

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JANUARY 12, 2015

NEW BUSINESS

CASE NO. 14VARIANCE1109

WHEREAS, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the proposed addition will not block any views of sight lines for pedestrians or vehicular traffic; and because the addition will not be located in any utility or access easements; and

WHEREAS, the Board finds that the variance will not alter the essential character of the general vicinity because the proposed addition will be constructed with a brick façade, matching the existing house; and because the existing large oak tree located adjacent to the street will remain and the existing plantings between the street and the new addition will either remain or be modified to enhance the foundation plantings; and

WHEREAS, the Board finds that the variance will not cause a hazard or nuisance to the public because the encroachment into the front yard is only 6 feet, leaving 34 feet to the property line and approximately 52 feet to the edge of the street pavement; and

WHEREAS, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the proposed addition only encroaches into a small portion of the required front yard; and

WHEREAS, the Board finds that the variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because this is on a corner lot which has large setbacks along both street frontages, which reduces the buildable area of the lot; and because the reduced buildable area has created the need for a variance to allow for the proposed kitchen expansion; and

WHEREAS, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the kitchen could not be enlarged without revamping the entire first floor layout and design;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow a proposed addition to be 34 feet from the west, front property line.

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

NO: No one.

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

ABSTAINING: No one.

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NEW BUSINESS

CASE NO. 14VARIANCE1112

Request: Variance from the Land Development Code to allow a proposed addition to encroach into the required front yard setback.

Location: 507 Briar Hill Road

Owners: Michael J. Gold & Shari Polur
507 Briar Hill Road
Louisville, KY 40206

Applicants: Same as owners

Representative: Logsdon Surveying
Mick Logsdon
1948 Gardiner Lane
Louisville, KY 40205

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 9—Bill Hollander
Staff Case Manager: Jon Crumbie, Planner II

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

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

Agency Testimony:

Staff Case Manager, Jon Crumbie discussed the case summary, standard of review and staff analysis from the staff report. He said the applicants want to build an enclosed porch onto an existing structure. A Minor Subdivision Plat is being reviewed to reduce the building limit line to 13.1 feet; and based on the outcome of the Board's decision.

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The following spoke in favor of this request:

Mick Logsdon, Surveyor.

Summary of testimony of those in favor:

Mick Logsdon, the applicant's surveyor, submitted renderings into the record and for the Board to see. He said the owners will be installing better quality landscaping than what exists, once built. Chair Proffitt asked if the addition would encroach into the dripline of the tree. Mr. Logsdon said the owners will replace the tree, if it does not survive.

The following spoke neither for nor against the request:

No one.

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

No one.

The following spoke in opposition to this request:

No one.

Summary of testimony of those in opposition:

No one.

Deliberation:

Chair Proffitt said the addition looks nice from the renderings provided.

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Variance—To allow a proposed addition to encroach into the required front yard:

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

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WHEREAS, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a variance from the Land Development Code to allow a proposed addition to be 13.1 feet from the front property line along Briar Hill Road; a variance of 12.9 feet; and

WHEREAS, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the proposal will be approximately 30 feet from the Briar Hill Road edge of pavement; and

WHEREAS, the Board finds that the variance will not alter the essential character of the general vicinity because the proposal will be designed in a way to complement the existing structure and surrounding residential neighborhood; and

WHEREAS, the Board finds that the variance will not cause a hazard or nuisance to the public because the proposal will be located behind the existing tree canopy along Briar Hill Road; and

WHEREAS, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the proposal will be mitigated by the existing tree canopy; and

WHEREAS, the Board finds that the variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because of the unusual shape of the lot and location of the existing residence on site; and because the residence aligns with the road; and

WHEREAS, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the applicant would not be able to improve their property due to the shape of the lot and placement of the existing structures; and

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

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which relief is sought because the current owners are not responsible for the shape of the lot and placement of existing structures since the home was built in 1964;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow a proposed enclosed porch to be 13.1 feet from the front property line along Briar Hill Road.

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

NO: No one.

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

ABSTAINING: No one.

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The meeting adjourned at 10:44 a.m.

CHAIRPERSON

SECRETARY