

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

**NOVEMBER 16, 2015**

A meeting of the Louisville Metro Board of Zoning Adjustment was held at 8:30.A.M. on Monday, November 16, 2015, 514 West Liberty Street, Old Jail Building, Old Jail Court Room, Louisville, Kentucky.

**Members present:**

David Proffitt, Chairperson  
Mike Allendorf, Vice Chairperson  
Betty Jarboe  
Lester Turner  
Dean Tharp  
Paul Bergmann

**Members absent:**

Rosalind Fishman, Secretary

**Staff members present:**

Jonathan Baker, Legal Counsel  
Joe Reverman, Planning Manager  
Steve Hendrix, Planning Supervisor  
Brian Mabry, Planning Coordinator  
Jon Crumble, Planner II  
Chris Brown, Planner II  
Laura Mattingly-Humphrey, Planner I  
Joel Dock, Planner I  
Sherie Long, Landscape Architect  
Beth Stevenson, Management Assistant

The following cases were heard:

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**APPROVAL OF MINUTES**

**NOVEMBER 2, 2015 BOARD OF ZONING ADJUSTMENT MEETING MINUTES**

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

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on November 2, 2015.

**YES: Members Allendorf, Bergmann, Turner and Proffitt.**

**NO: No one.**

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

**ABSTAINING: Members Jarboe and Tharp.**

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**NOVEMBER 16, 2015**

**BUSINESS SESSION:**

**NON-HEARING CASES**

**CASE NO. 15CUP1035**

**Request:** Modified Conditional Use Permit to allow an addition of 2,200 SF to the existing Norton Brownsboro Hospital for an MRI room **(Associated with staff approvable Revised Detailed District Development Plan, Case No. 15DEVPLAN1135).**

**Project Name:** Norton Brownsboro Hospital

**Location:** 4960 Norton Healthcare Blvd.

**Owner:** Norton Hospitals, Inc.  
Douglas Winkelhake, Division President  
233 East Gray Street, Suite 213  
Louisville, KY 40202

**Applicant:** Norton Properties, Inc.  
Emmett Ramser  
315 E. Broadway, Suite 001  
Louisville, KY 40202

**Attorney:** Glenn Price  
Frost Brown Todd, LLC  
400 West Market Street, Suite 3200  
Louisville, KY 40202

**Representative:** Ann Richard  
Land Design & Development  
503 Washburn Avenue, Suite 101  
Louisville, KY 40222

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 16—Kelly Downard**  
**Staff Case Manager: Christopher Brown, Planner II**

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**NON-HEARING CASES**

**CASE NO. 15CUP1035**

Information from the applicant was incorporated into the record. The Board received this information in advance of the meeting, and was made available to any interested party prior to the meeting. (The information is part of the case file maintained at the Planning and Design Services offices located at 444 S. 5<sup>th</sup> Street).

On August 17, 2015, the applicant requested a modification of the approved Conditional Use Permit to allow plan revisions for an addition to the existing hospital for an MRI room.

On November 16, 2015, the Board held a meeting for a non-hearing Modified Conditional Use Permit in business session. A drawing showing the premises affected and the existing and/or proposed construction was presented to each Board member.

**DISCUSSION:**

Staff case manager, Chris Brown, said the request is for a 2,200 SF addition for an MRI room. Mr. Brown said there have been several modifications to the original CUP. Chair Proffitt asked if there was anyone present for this case to speak either in support, opposition or as an interested party. No one responded from the audience.

**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 November 16, 2015 business session proceedings.**

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 information submitted by the applicant; the site plan; PowerPoint presentations and discussion, that the applicant is requesting a modification of an approved Conditional Use Permit to allow a 2,200 SF addition to the existing Norton Brownsboro Hospital for an MRI room; and

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**WHEREAS**, the Board finds the proposal to be in conformance with the Comprehensive Plan because it complies with all applicable guidelines, principles and objectives; and it has received preliminary approval from Transportation Review and Louisville and Jefferson County Metropolitan Sewer District;

**RESOLVED**, that the modification of the existing Conditional Use Permit is hereby **APPROVED**, for revisions to the site plan to allow a 2,200 SF MRI addition based on the previously approved conditions of approval.

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

**NO: No one.**

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

**ABSTAINING: No one.**

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**NOVEMBER 16, 2015**

**BUSINESS SESSION:**

**NON-HEARING VARIANCE**

**CASE NO. 15VARIANCE1075**

**Request:** Variance from the Land Development Code to allow a proposed garage to encroach into the side and rear yard setbacks; and a variance to allow a reduction in the rear private yard requirement.

**Project Name:** New Garage

**Location:** 73 Valley Road

**Owner:** Vanessa L. Armstrong  
73 Valley Road  
Louisville, KY 40204

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

**Representative:** Same as Applicant

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT:** 8—Tom Owen  
**Staff Case Manager:** Laura Mattingly-Humphrey, Planner I

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

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact customer service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the November 16, 2015 public hearing proceedings.**

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**BUSINESS SESSION:**

**NON-HEARING VARIANCE**

**CASE NO. 15VARIANCE1075**

**DISCUSSION:**

Case Manager, Laura Mattingly-Humphrey, said she cited the wrong section of the Land Development Code in her staff report which was Section 5.2.2 and should have been 5.4.1.E.

**Variences—To allow a proposed garage to encroach into the side and rear yards; and a variance to allow a reduction in the rear private yard area:**

On a motion by Board 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; and discussion at the public hearing that the applicant is requesting variances from Section 5.4.1.E of the Land Development Code to allow a proposed garage to be 1 foot from the north property line (requirement 3 feet; or a variance of 2 feet); and to be 1 foot from the rear property line (requirement 5 feet or a variance of 4 feet); and a variance from Section 5.4.1D of the Land Development Code to allow a reduction in the required rear private yard area to 1056 SF(requirement 1846 SF or a variance of 790 SF); and

**WHEREAS**, the Board finds that the requested variances will not adversely affect the public health, safety or welfare as the proposed garage is in the rear of the private property and does not obstruct any public right-of-way or visibility of drivers or pedestrians; and

**WHEREAS**, the Board finds that the variances will not alter the essential character of the general vicinity as the size and configuration of residences in this area are a result of the shape and geography of the lots, resulting in an eclectic mix of sizes and styles; and because the proposed garage appears to be compatible to the primary residence as well as surrounding properties; in addition, the existing tree canopy is an integral part of the character of the neighborhood and will not be changed; and

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**CASE NO. 15VARIANCE1075**

**WHEREAS**, the Board finds that the variances will not cause a hazard or nuisance to the public as the building addition is located at the rear of the property and intended for single family residential use only; and

**WHEREAS**, the Board finds that the variances will not allow an unreasonable circumvention of the zoning regulations as the side yards and private rear yard reduction has been in place for a number of years; and because the proposed garage only slightly modifies the existing conditions; and

**WHEREAS**, the Board finds that the variances arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the site was developed before the current regulations; and because the size and configuration of the residence is a result due to geographical site constraints; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the garage design and location would have to be significantly altered; 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 due to the size and configuration of the residence and the site constraints due to the lay of the land;

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

The variances allow:

1. The private yard area to be 1056 square feet.
2. The proposed garage to be 1 foot from the north property line.
3. The proposed garage to be 1 foot from the rear property line; and

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



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

**NO: No one.**

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

**ABSTAINING: No one.**

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**BUSINESS SESSION:**

**NON-HEARING VARIANCE**

**CASE NO. 15VARIANCE1077**

**Request:** Variance from the Land Development Code to allow a proposed carriage house to encroach into the required north side yard setback.

**Project Name:** Carriage House

**Location:** 1455 S. 6<sup>th</sup> Street

**Owners:** Eric Light & Connie Light  
511 Belgravia Court  
Louisville, KY 40208

**Applicant:** Charlie Williams  
Charlie Williams Design  
1626 Windsor Place  
Louisville, KY 40204

**Representative:** Same as Applicant

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT:** 6—David James  
**Staff Case Manager:** Laura Mattingly-Humphrey

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

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact customer service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the November 16, 2015 public hearing proceedings.**

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**BUSINESS SESSION:**

**NON-HEARING VARIANCE**

**CASE NO. 15VARIANCE1077**

**DISCUSSION:**

Case Manager, Laura Mattingly-Humphrey, said she cited the wrong section of the Land Development Code in her staff report which was Section 5.2.2 and should have been 5.4.1.E.

**Variance—To allow a proposed carriage house to encroach into the north side yard setback:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; and discussion at the public hearing that the applicant is requesting a variance from Section 5.2.2 of the Land Development Code to allow a proposed carriage house to be 1 foot from the north side property line (requirement is 3 feet or a 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 proposed carriage house is at the rear of the private property; and because it will not obstruct any public right-of-way or the visibility of drivers or pedestrians; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity as the carriage house design is consistent with the primary residence as well as surrounding homes; and because carriage houses are a traditional element of the Old Louisville neighborhood; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public as the carriage house is on a single family lot and is intended for uses permitted within the Traditional Neighborhood Form District (TNZD); and because the adjacent property owners have no objection to the 1 foot side yard setback; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations as the applicant is allow a three-foot

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setback on the south side of the property; and because many properties in this area have structures built at or near the side and rear property lines due to the typical size and shape of the lots in the neighborhood;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow a proposed carriage house to be 1 foot from the north property line;

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

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

**NO: No one.**

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

**ABSTAINING: No one.**

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**NEW BUSINESS:**

**CASE NO. 15VARIANCE1054**

**Request:** Variances from the Land Development Code to allow a proposed dwelling to encroach into the infill side yard setback; and to allow a reduction in the private yard area.

**Project Name:** New House

**Location:** 553 Wainwright Avenue

**Owners:** Frank & Brenda Mosser  
3119 Meadowlark Avenue  
Louisville, KY 40213

**Applicant:** Same as Owners

**Attorney:** Taylor M. Hamilton  
Morgan & Pottinger, P.S.C.  
601 West Main Street  
Louisville, KY 40202

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 15—Marianne Butler**

**Staff Case Manager:** Sherie' Long, Landscape Architect

**(CONTINUED FROM OCTOBER 5, 2015 & NOVEMBER 2, 2015 HEARINGS)**

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

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

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**NEW BUSINESS:**

**CASE NO. 15VARIANCE1054**

**Agency Testimony:**

Staff Case Manager, Sherie' Long discussed the case summary, standard of review and staff analysis from the staff report. She said this case was continued to allow the applicant time to submit a survey, consolidate the lots and to consider a different location for the entrance. Ms. Long said the applicant has made all the changes the Board requested which changed the variance requests as shown in the staff report. She said the site plan needs to be corrected to show the distance from the SW property line to be 1.17 feet; and not 1.25 feet. The requests meet the standard of review per the staff analysis.

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

Frank Mosser.

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

Frank Mosser, the owner, said he worked with his contractor on the changes; and said he will correct the site plan.

**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 November 16, 2015 public hearing proceedings.**

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**NEW BUSINESS:**

**CASE NO. 15VARIANCE1054**

**Variance—To allow a proposed dwelling/house to encroach into the infill side yard setback:**

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 with a correction showing the setback to be 1.17 feet from the SW property line (not 1.25 feet); the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a variance from Chapter 5, Section 5.4.1.C.6.b of the land Development Code to allow the proposed dwelling to encroach into the infill side yard setback; and

**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the applicant's proposal provides for the overhang and gutter to be contained within the subject property and allows access to the structure; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity because there are other structures in the vicinity that are constructed at a similar distance from the property line; and because the new location of the structure will be the same distance from the property line as the existing structures; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public because the drainage from the roof is being addressed; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the new structure will be located at the same distance from the property line as the existing structure; 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 lot is narrow and the existing home is located close to the side property line; 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

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proposal is to reuse the existing foundation of the house for the new construction;  
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 proposal is a reuse of the existing foundation of the house for new construction;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow the proposed new dwelling to be 1.17 feet from the southwest property line and that this be corrected on the site plan to show 1.17 feet instead of 1.25 feet.

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

**NO: No one.**

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

**ABSTAINING: No one.**

**Variance—To allow a reduction in the private yard area:**

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 with a correction showing the setback to be 1.17 feet from the SW property line (not 1.25 feet); the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a variance from Chapter 5, Section 5.4.1.D.2 of the Land Development Code to allow the private yard area to be reduced to 953.3 SF (requirement 2,250 SF or a variance of 1,296.7 SF);  
and

**WHEREAS**, the Board finds that the variance will not adversely affect the public health, safety or welfare because the reduction in the private yard is a result of the applicant honoring the front yard setback which matches the established pattern of the block; also, because the consolidation of the properties creates a large open area northeast of the new structure, which can be used as private yard; and



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**WHEREAS**, the Board finds that the variance will not alter the general character of the area because the front yard setback is being honored, which is consistent with the established pattern of the block; and because there is sufficient open space along the northeast side of the property to compensate for the reduction at the rear of the property; and because the applicant is proposing a covered patio at the rear of the house; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public because there is sufficient open space along the northeast side of the lot which can be used as private yard; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations since the front yard setback is being honored which has created the need to ask for a private yard reduction; and because the open space along the northeast side of the lot has sufficient area to compensate for the requested reduction; 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 lot is shallow in depth which creates a small rear yard; and because the new home encroaches into the small rear yard area to honor the front yard setback; 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 covered rear patio could not be provided as proposed; 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 applicant is requesting a reduction in the private yard area prior to beginning construction;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow the private yard area to be 953.3 square feet.

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**CASE NO. 15VARIANCE1054**

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

**NO: No one.**

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

**ABSTAINING: No one.**

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**NOVEMBER 16, 2015**

**NEW BUSINESS:**

**CASE NO. 15VARIANCE1074**

**Request:** Variance from the Development Code to allow a proposed carport and principal structure addition with porch to encroach into the street side yard.

**Project Name:** 349 Ridgeway Avenue

**Location:** 349 Ridgeway Avenue

**Owner:** Caroline Turner Whaley  
P.O. Box 32760  
Louisville, KY 40232

**Applicant:** Double L Construction  
Jeffrey M. Lawson  
4400 Fancy Gap Court  
Louisville, KY 40299

**Representative:** Same as Applicant

**Jurisdiction:** City of St. Matthews

**COUNCIL DISTRICT 9—Bill Hollander**  
**Staff Case Manager: Joel P. Dock, Planner I**

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

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

**Agency Testimony:**

Staff Case Manager, Joel Dock discussed the case summary, standard of review and staff analysis from the staff report. He said the applicant is proposing to remove an attached pergola with an aluminum roof and some of the residence

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**CASE NO. 15VARIANCE1074**

along Dellridge Drive to construct a carport and expand the rear of the house by approximately 2,200 square feet including a porch. Mr. Dock said the applicant has submitted a minor plat application (15MINORPLAT1159) to shift the 30 foot building limit line, but is pending approval of the Board's decision today.

Chair Proffitt said it appears the driveway is encroaching into the public right-of-way. Member Bergmann said he thinks the applicant could build this to code since the property is so large. Mr. Dock said a large portion of the property is covered in tree canopy, in addition to the existing landscaping along Dellridge Drive. He said the requests meet the standard of review.

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

Jeff Lawson.

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

Jeff Lawson, the applicant's contractor, said the residence was built in the late 1800's and that there is no first floor master bedroom. He said the owners' are getting older, so redesigning it may not suit their needs. Chair Proffitt said Public Works and the City of St. Matthews will have to sign off on the driveway encroachment. Mr. Dock said the minor plat has been reviewed by Public Works and they do not have any concerns.

**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:**

Member Jarboe said since the house was built so many years ago, feels the owners' are trying to utilize the same configuration and would consider that a hardship. Chair Proffitt agreed but said that St. Matthews needs to be involved.

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Member Bergmann said the applicant is creating the hardship, and that they could still build a carport to code. The Board decided to vote on the variances individually since there were mixed perspectives.

**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 November 16, 2015 public hearing proceedings.**

**Variance—To allow an addition and porch to encroach into the street side yard:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; minor plat; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a variance from Section 4.6.2.C of the Development Code to allow an addition and porch to be 15 feet from the street side yard (requirement 30 feet; or a variance of 15 feet); and

**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the proposed structures do not obstruct visibility of motor vehicles from the public right-of-way or the mobility and safety of pedestrians; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity as the size, placement and shape of residences in the area are a function of the size and shape of the lot; and because the material and character of the proposed structures appear to be consistent with the design of the existing residence as well as nearby residences; additionally, the lot has a significant tree canopy and landscaping along the boundary that will remain intact; and

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**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public because the proposed structures are additions to an existing single family residence and intended for single-family residential use; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the existing home is constructed along the Dellridge Avenue right-of-way on this corner lot instead of being built in a more centrally located area of the lot; and because the size, placement and shape of residences in the area are a function of the size and shape of their lots; 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 as the proposed structures have been designed to fit the needs of the homeowners; also because the applicant is designing the proposal to match the configuration of the existing home considering the size, shape and placement;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow an addition, approximately 2,100 SF and a 730 SF porch to be 15 feet from the street side yard.

**YES: Members Allendorf, Jarboe, Tharp, Turner and Proffitt.**

**NO: Member Bergmann.**

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

**ABSTAINING: No one.**

**Variance—To allow a proposed carport to encroach into the street side yard:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; minor plat; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a variance from Section

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4.6.2.C of the Development Code to allow a proposed carport to be 9.7 feet from the street side yard (request is 30 feet; or a variance of 20.3 feet); and

**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the proposed structures do not obstruct visibility or motor vehicles from the public right-of-way or the mobility and safety of pedestrians; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity as the size, placement and shape of residences in the area are a function of the size and shape of the lot; and because the material and character of the proposed structures appear to be consistent with the design of the existing residence as well as nearby residences; additionally, the lot has a significant tree canopy and landscaping along the boundary that will remain intact; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public because the proposed structures are additions to an existing single-family residence and intended for single-family residential use; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the existing home is constructed along the Dellridge Avenue right-of-way on this corner lot instead of being built in a more centrally located area of the lot; and because the size, placement and shape of residences in the area are a function of the size and shape of their lots; 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 as the proposed structures have been designed to fit the needs of the homeowners; also because the applicant is designing the proposal to match the configuration of the existing home considering the size, shape and placement;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow the proposed carport to be 9.7 feet from the street side yard **ON CONDITION** that the applicant receive a letter of approval from the City of St. Matthews for the encroachment of the existing driveway into the public

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right-of-way; and that this letter be submitted to staff for the file; and at that point, the variance will be staff approvable.

**YES: Members Allendorf, Jarboe, Tharp, Turner and Proffitt.**

**NO: Member Bergmann.**

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

**ABSTAINING: No one.**



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**NEW BUSINESS:**

**CASE NO. 15VARIANCE1062**

**Request:** Variance from the Land Development Code to allow the dumpsters and dumpster pad to encroach into the side yard setback; a waiver from the Land Development Code to allow the dumpsters and concrete pad to encroach into the 5' perimeter Landscape Buffer Area (LBA); and a waiver from the Land Development Code to not provide the required screening of the dumpsters.

**Project Name:** Islamic Center

**Location:** 4104 River Road

**Owner:** Louisville Islamic Center, Inc.  
(Formerly Feisal Mosque, Inc.)  
Ozair M. Shariff, Attorney & Board Member  
4007 River Road  
Louisville, KY 40206

**Applicant:** Same as Owner

**Attorney:** Ozair M. Shariff  
Stites & Harbison, PLLC  
400 West Market Street, Ste. 1800  
Louisville, KY 40202

**Jurisdiction:** Indian Hills

**COUNCIL DISTRICT 7—Angela Leet**

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

**Agency Testimony:**

Staff Case Manager, Sherie' Long, said the applicant has a request.

Ozair Shariff, Esq. said he would like to continue this case to December 7, 2015 to address concerns from River Fields.

**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 November 16, 2015 public hearing proceedings.**

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

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** this case to **DECEMBER 7, 2015** to allow the applicant time to address concerns from River Fields.

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

**NO: No one.**

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

**ABSTAINING: No one.**

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**NEW BUSINESS:**

**CASE NO. 15VARIANCE1076**

**Request:** Variances from the Land Development Code (LDC) to allow the proposed structure and parking to encroach into the transition side yard setback; a waiver from the LDC to eliminate the 35' transition buffer required along the west property perimeter; a waiver from the LDC to not provide the 60% animating features and the 50% clear glass doors and windows along the street façade; and a waiver from the LDC to not provide the 60% animating features along the west façade.

**Project Name:** The Mower Shop (New Building)

**Location:** 1142 Minor Lane

**Owner:** JNO, LLC  
Brian Humbert  
7400 Preston Highway  
Louisville, KY 40219

**Applicant:** Same as Owner

**Representative:** Cardinal Planning & Design, Inc.  
Kathy Matheny  
9009 Preston Highway  
Louisville, KY 40219

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 13—Vicki Aubrey Welch**

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

**Agency Testimony:**

Staff Case Manager, Sherie' Long discussed the case summary, standard of review and staff analysis from the staff report. She said she is not in support of the second waiver request for animating features (clear glass doors and windows). She said the applicant should increase the loading and unloading area of the accessible space to the required 8 ft. width.

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

Kathy Matheny.

Clyde Clayborn Contractors, 6003 Fern Valley Road, Louisville, KY 40228.

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

Kathy Matheny, the applicant's representative, said the old house has been actively used as a mower repair shop. The applicant would like to remove the existing buildings and construct a new 4,200 SF pre-engineered steel repair shop. Ms. Matheny said considering the use and location doesn't feel glass doors and windows are necessary. She said they will be planting evergreen trees for buffering. Member Jarboe said they should add some animating features to enhance the building appearance and the area in general. Member Bergmann agreed.

Clyde Clayborn, the applicant's contractor, said he could add four windows at the top of the building (4 X 5) for animating features. Ms. Matheny said they could accent the trim to a lighter green to offset the dark green exterior; in addition to the pine trees. Chair Proffitt said the Board could add these as conditions of approval.

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

No one.

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

No one.

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

No one.

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

No one.

**Deliberation:**

Chair Proffitt and Member Allendorf decided to abstain due to possible conflicts of interest.

**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 November 16, 2015 public hearing proceedings.**

**Variances—To allow the proposed structure and parking to encroach into the transition side yard setback:**

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 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 Chapter 5, Sections 5.7.1.B.3.b and 5.3.2.C.2.b of the Land Development Code to allow the proposed structure and parking to encroach into the transition side yard setback; and

**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the proposal provides access to the structure and allows area for drainage; and because the parking and new structure will not block visibility for pedestrian or vehicular movement into and out of the subject site; and

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**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity because the new structure will be located two feet further from the west property line than the existing structure is currently; and because the parking will be located only one foot closer to the adjacent property; and because the existing 8 ft. tall chain link fence will remain; and because additional tree plantings will be provided along with screening plantings along the street frontage which will improve the appearance of the subject property; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public because the proposal is adding vegetation to the site, improving the circulation and designating parking which will enhance the property and increase the safety; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the new structure will be located further from the west property line than the existing condition and the parking will be located only one foot closer than the existing pavement; and because the setback requirement along the west perimeter is a result of the Transition Zone requirements; and because the adjacent structure is being used commercially, the setback is not necessary because it is intended to lessen the impact of adjacent residential properties; 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 zoning of the adjacent property and the location of the form district perimeter results in this property being in a transition zone, therefore, the residential requirements are to be applied along the west perimeter; and because the adjacent property has a commercial use on a residentially zoned property so the large setback is not necessary to reduce the impact; 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 and create an unnecessary hardship because the development parcel is only 80 feet wide; and if the 35 foot setback were honored, all most half of the site could not be developed; 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 applicant is requesting relief from the requirement prior to beginning construction;

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

**The variances allow:**

1. The proposed building to be 7 feet from the side property line.
2. The proposed parking to be 3.5 feet from the side property line.

**YES: Members Bergmann, Jarboe, Tharp and Turner.**

**NO: No one.**

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

**ABSTAINING: Members Proffitt and Allendorf.**

**Waiver #1—To eliminate the 35 foot transition buffer required along the west property perimeter:**

On a motion by Member Jarboe, 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, 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 waiver from Sections 5.7.1.B.3.a and 10.2.4 of the Land Development Code to eliminate the 35-foot transition buffer required along the west property perimeter; and

**WHEREAS**, the Board finds that the waiver will not adversely affect adjacent property owners since the adjacent property is being used commercially; and

**WHEREAS**, the Board finds that the requested 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 intrusion and mitigate when appropriate; and because Guideline 3, Policies 21 and 22 calls for appropriate transitions between uses

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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, dirt, litter, junk, outdoor storage and visual nuisances; and because Guideline 3, Policy 24 states that parking, loading and delivery areas locate 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; and because 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 associate with impervious surfaces, and to filter air borne and water borne pollutants; and since adjacent property is a similar intensity and use as the subject property, the waiver request does not violate the guidelines and policies of Cornerstone 2020; also because the applicant is providing a tree along the perimeter to improve and enhance the western perimeter; 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 the adjacent uses are similar the need for additional buffering is lessened; 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 replacement building needs to be located in the same area for the business' operations to work; and because the adjacent use is commercial; and because the applicant is incorporating a Vehicular Use Area along Minors Lane to add more appealing landscaping from the visible part of the lot from the street;

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waiver to eliminate the 35 foot transition buffer along the west property line.



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**YES: Members Bergmann, Jarboe, Tharp and Turner.**

**NO: No one.**

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

**ABSTAINING: Members Proffitt and Allendorf.**

**Waiver #2—To not provide the 60% animating features and 50% clear glass doors and windows along the street façade:**

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 including the standard of review, 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 waiver from Sections 5.7.1.B.3.b; 5.6.1.B.1 and 5.6.1.C.1 of the Land Development Code to not provide the 60% animating features and 50% of the clear glass doors and windows along the proposed building's street façade; and

**WHEREAS**, the Board finds that the requested waiver will not adversely affect adjacent property owners because the adjacent property is operating a commercial business; and because the proposed structure is for mower repairs and there is another "store front" type building for customers to purchase mowers and supplies; and because the applicant agreed today to work with staff to install four windows at the top of the proposed structure (approximate size 4' X 5'), plant evergreen trees; and on a two-toned color scheme for the exterior of the pre-engineered steel building; and

**WHEREAS**, the Board finds that the waiver will not violate specific guidelines of Cornerstone 2020 because it will not detract from the visual appearance of the neighborhood because the subject area is a side lot between existing businesses and an older house that is used commercially; and because the new building will be a visual improvement with landscaping in the front; also because the applicant has agreed today to install four windows at the top of the proposed structure (approximately 4' X 5'); plant evergreen trees; and work with staff on a two-toned color scheme for the exterior of the pre-engineered steel building; and

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**WHEREAS**, the Board finds that the extent of the waiver is the minimum necessary to afford relief to the applicant because the proposed building is a replacement building on a side street; and because the applicant has agreed today to install four windows at the top of the proposed structure (approximately 4' X 5'); plant evergreen trees; and work with staff on a two-toned color scheme for the exterior of the pre-engineered steel building; and

**WHEREAS**, the Board finds that the applicant has incorporated other design measures to compensate for non-compliance of the requirements to be waived because the applicant has agreed today to install four windows at the top of the proposed structure (approximately 4' X 5'); plant evergreen trees; and work with staff on a two-toned color scheme for the exterior of the pre-engineered steel building;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waiver to not provide 60% animating features and 50% clear glass doors and windows along the street façade **ON CONDITION:**

**The conditions are as follows:**

1. The applicant will work with staff and install four windows at the top of the proposed façade of the building (approximate size 4' X 5').
2. The applicant will work with staff on the landscaping and plant evergreen trees along the street front.
3. The applicant will work with staff on a two-toned color scheme for the exterior of the proposed pre-engineered steel building.

**YES: Members Bergmann, Jarboe, Tharp and Turner.**

**NO: No one.**

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

**ABSTAINING: Members Proffitt and Allendorf.**

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**Waiver #3—To not provide the 60% animating features along the west façade:**

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 including the standard of review, 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 waiver of Sections 5.7.1.B.3.b and 5.6.1.B.1 of the Land Development Code to not provide the 60% animating features along the west façade; and

**WHEREAS**, the Board finds that the requested waiver will not adversely affect adjacent property owners, since the adjacent property is a commercial use, not residential; and

**WHEREAS**, the Board finds that the waiver will not violate specific guidelines of Cornerstone 2020 because Guideline 3, Policies 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; and because 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; and when accessing 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; and because the proposal is for a non-residential use; and because 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 length of the façade; the requested waiver does not violate the comprehensive plan since the adjacent property is being used as a commercial use, not residential, therefore, the façade animation is not necessary; and

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**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 adjacent property is used as commercial, not residential; 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 adjacent use is being used as commercial, therefore, the requirement is not necessary;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waiver to not provide the required 60% animating features along the west façade.

**YES: Members Bergmann, Jarboe, Tharp and Turner.**

**NO: No one.**

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

**ABSTAINING: Members Proffitt and Allendorf.**

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**The meeting adjourned at 10:30 a.m.**

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**CHAIRPERSON**

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**SECRETARY**