

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

**SEPTEMBER 22, 2014**

A meeting of the Louisville Metro Board of Zoning Adjustment was held at 8:30.A.M. on Monday, September 22, 2014, 514 West Liberty Street, Old Jail Building, Old Jail Court Room, Louisville, Kentucky.

**Members present were:**

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

**Members absent:**

No one

**Staff members present were:**

Emily Liu, Director, Planning & Design Services  
John Carroll, Legal Counsel  
Steve Hendrix, Planning Supervisor  
Joe Reverman, Planning Supervisor  
Sherie Long, Landscape Architect  
Jon Crumble, Planner II  
Matthew Doyle, Planner I  
Lee Wells, Planning Technician  
Beth Stevenson, Management Assistant

\*Member Bergmann arrived at 8:44 a.m.

The following cases were heard:

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**APPROVAL OF MINUTES**

**SEPTEMBER 8, 2014 BOARD OF ZONING ADJUSTMENT MEETING  
MINUTES**

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

**RESOLVED**, that the Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on September 8, 2014.

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

**NO: No one.**

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

**ABSTAINING: Member Tharp.**

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**SEPTEMBER 22, 2014**

**BUSINESS SESSION**

**CASE NO. 13CUP1011**

**Request:** JBS USA, LLC report relating to Condition of Approval #5

**Project Name:** JBS USA, LLC

**Location:** 1200 Story Avenue

**Owner:** JBS USA, LLC  
John W. Cliff, Authorized Agent  
1700 Promontory Circle  
Greeley, CO 80634

**Applicant:** Same as owner

**Attorneys:** Glenn Price, Esq. & Dennis Conniff, Esq.  
Frost Brown Todd, LLC  
400 West Market Street, Suite 3200  
Louisville, KY 40202

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 4—David Tandy**

**Staff Case Manager: Steve Hendrix, Planning Supervisor**

**DISCUSSION:**

Glenn Price and Dennis Conniff, the applicant's attorneys were sworn in. Mr. Conniff said there are currently 8 alleged violations pertaining to the odor coming from the property, and that they are working with the Air Pollution Control District to resolve them. Mr. Conniff said they are properly maintaining the equipment, improving the sprayers, in the process of closing the barnyard and currently doing a pilot program to use ozone instead of ammonia for cleaning purposes. Chair Proffitt asked if the violations would be resolved within 6 months. Mr. Conniff said he doesn't know at this point, but they will either come to an agreement with APCD or have an administrative hearing that could take up to a year.

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Jon Salomon, attorney for the Butchertown Neighborhood Association, said the nuisances have not been resolved, neither old nor new. He said there are stock pen odors; rendering odors and odors when the hogs are waiting to be offloaded.

Chair Proffitt said the applicant needs time to resolve the violations; and that they will have to report back to the Board in six months; or earlier if resolved.

Mr. Price said they are enclosing the stock pens, which should help significantly; and that the staging time of the hogs is much less than what it was before. He said enclosing the hog pens should be completed by October this year; and said their goal is to reduce the odor as much as possible.

Mr. Salomon said the Board may want to consider additional conditions of approval; and set the next 6 month hearing today. Member Allendorf suggested tentatively March 16, 2015.

**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 September 22, 2014 public hearing proceedings.**

**The Board did not vote.**

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**NEW BUSINESS:**

**CASE NO. 14VARIANCE1081**

**Request:** Variance from the Land Development Code to allow a reduction in the required private yard.

**Project Name:** New Addition

**Location:** 103 East Kenton Street

**Owner:** Robert G. Wathen  
103 East Kenton Street  
Louisville, KY 40214

**Applicant:** Same as owner

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 15—Marianne Butler**

**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. 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 the applicant wants to remove the privacy fence and existing trees to construct an attached garage and open porch on the west side of the house. She said several new trees and additional plantings are proposed to enhance the property.

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**NEW BUSINESS:**

**CASE NO. 14VARIANCE1081**

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

Robert Wathen.

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

Robert Wathen, the owner, said he wants to remodel his house and will be residing in it. He said he will be planting dogwood trees and other landscaping to mitigate the removal of the mulberry and walnut trees.

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

No one.

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

No one spoke as an interested party.

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

No one.

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

No one spoke in opposition.

**Deliberation:**

Board of Zoning Adjustment Deliberations

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**Variance to allow a reduction in the required 20% private yard area from 570 square feet to 0 square feet:**

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

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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 Chapter 5, Section 5.4.1D.3 of the Land Development Code to allow a reduction in the required 20% private yard; and

**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the attached garage is not obstructing views of vehicle or pedestrian traffic and is not encroaching into any easements; and because the proposed garage and new driveway will provide designated parking off the public street; and removal of the existing 6 foot fence from the front and street side yards will improve visibility at the intersection; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity because there are other properties in the neighborhood which have added additions including garages to their homes; plus, the renovations and new addition will use construction materials similar to those used in the neighborhood; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public because the new addition will not have windows facing the adjacent neighbor to the north and the privacy fence will be replaced separating the two properties; and because the garage addition will not obstruct any views for motorists or pedestrians; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations since a variance is required to construct the garage addition on this site; and because the location of the current structure does not conform to the traditional lot configuration; and the existing structure is located at would be considered the rear of the lot or the accessory structure area; the front of the lot facing First Street, where the principal structure would typically be located is instead the open side yard or private yard area; typically, the area between the principal structure and the accessory structure is the private yard area, 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

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because the structure was originally a grocery/dry goods store prior to being converted into a single family residence; and because this conversion took place prior to the current owner purchasing the property; and because the location of the existing structure on the rear of the lot has created a situation which does not conform to the traditional layout of lots in the general vicinity; in addition, corner lots have more restrictive setback requirements because they front more than one street which limits the buildable area on the lot; 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 existing structure was converted from a grocery/dry goods store to a single family home and without the variance, the applicant could not build the proposed attached garage and open porch; also because this is on a corner lot which have more restrictive setback requirements because they front more than one street; 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 since the applicant is requesting the variance prior to construction;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow the private yard area to be 0 square feet.

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

**NO: No one.**

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

**ABSTAINING: No one.**



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**NEW BUSINESS:**

**CASE NO. 14VARIANCE1082**

**Request:** Variance from the Development Code to allow the replacement fence to exceed the maximum height.

**Project Name:** Replacement Fence

**Location:** 3400 Hycliffe Avenue

**Owner:** William & Debra Haynes  
3400 Hycliffe Avenue  
Louisville, Kentucky 40207

**Applicant:** Same as owner

**Jurisdiction:** City of St. Matthews

**COUNCIL DISTRICT 9—Tina Ward-Pugh**

**Staff Case Manager: Sherie' Long**

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, Sherie' Long discussed the case summary, standard of review and staff analysis from the staff report. She said the applicant wants to replace a deteriorated 4 ft. tall wooden fence and rebuild with a 6-ft. tall cedar plank shadow-box fence along Cannons Lane. She said they will be adding an additional 9 foot section, including a gate, which will turn the corner to connect to the façade of the house. Ms. Long said the applicant needs to address the technical review items. The Board said the plan may be inaccurate; and the property might need to be surveyed.

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**CASE NO. 14VARIANCE1082**

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

William Haynes.

Debra Haynes.

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

William Haynes, the owner, pointed out where the fence would be placed and that the gate would open by the porch. Chair Proffitt said he may have to survey one side of the property. Mr. Haynes said the new fence will create curb appeal and help mitigate the noise from Cannons Lane.

Debra Haynes, the owner, said the home was built in 1951 and wants to keep the same look. She said the gate in the front will not be solid wood and that they will plant viburnums to create more privacy. She said they will also be painting the new fence.

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

No one.

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

No one spoke as an interested party.

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

No one.

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

No one spoke in opposition.

**Deliberation:**

Chair Proffitt read a condition of approval into the record.

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**CASE NO. 14VARIANCE1082**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant a variance from Article 9.1.B.1(a) of the Development Code to allow the replacement fence to exceed the maximum height; and

**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the proposed fence is to be located in the same place as the existing fence, 22 feet from the street and 9 feet from the house façade; and because the location of the fence will not block the view of any motor vehicles or restrict pedestrian traffic; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity because the request is to replace the current deteriorated fence with a new slightly taller shadow-box fence essentially in the same location; and because there is a similar fence on the property across the street on the northeastern corner of Cannons Lane and Hycliffe Avenue; and because there are other similar existing wooden fences in the neighborhood; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public because the proposed fence will be located essentially in the same location as the existing deteriorated fence except the new fence will extend south to the existing driveway pavement; and because the new fence will not block any vehicles sight lines or restrict any pedestrian traffic; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the proposed fence will be comparable with existing fences in the neighborhood; and because it will be located in the same place as the existing deteriorated fence; 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 a corner lot with two street frontages; and because fences

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located in the street side yards are limited to the height of a fence in the front yard; and because this requirement limits the ability to create privacy in the rear private yard of a corner lot; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the proposed fence would be limited to a height of 4 ft. which does not provide efficient privacy of the rear yard from the busy street; and

**WHEREAS**, the Board finds that the circumstances are 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 not responsible for the existing location of the house or existing fence;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow a proposed 6 ft. tall fence along the southwest property line **ON CONDITION:**

1. The applicant will submit a certified land survey to Planning & Design staff, indicating the location of the owners' property line and fence location as well as the front porch and corner of the home where the fence is to be attached.

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

**NO: No one.**

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

**ABSTAINING: No one.**

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**NEW BUSINESS:**

**CASE NO. 14VARIANC1083**

**Request:** Variance and waiver from the Land Development Code to allow the construction of a carport.

**Project Name:** Carport

**Location:** 4714 Southern Parkway

**Owners:** Darren & Valerie Meyers  
4714 Southern Parkway  
Louisville, KY 40214

**Applicants** Same as owners

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 21—Dan Johnson**

**Staff Case Manager:** Latondra Yates, Planner II presented by 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. 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 the applicant received a Notice of Violation for not receiving a permit or having a variance and waiver. She said staff does not support the granting of the variance and waiver because of overhang and water runoff issues and read the "Technical Review" items into the record.

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**NEW BUSINESS:**

**CASE NO. 14VARIANC1083**

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

Darren Meyers, submitted a large plan to scale into the record.

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

Darren Meyers, the owner, said the carport will cover their camper; and that he is not building on his neighbors' property. He explained the pitch of the roof and how the water will run into the graveled area along the driveway. He agreed to use the 1-hour fire-rated columns; and to include downspouts directed away from the adjacent property owners.

Member Allendorf asked if he did a survey of his property. Mr. Meyers said no, but his neighbor did.

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

No one.

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

No one spoke as an interested party.

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

Kevin Comstock, 4712 Southern Parkway, Louisville, KY 40214; who submitted a survey into the record.

Mary Smallwood, 4712 Southern Parkway, Louisville, KY 40214.

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

Kevin Comstock submitted a pin survey into the record and for the Board to see. He said the proposal won't fit between the fence and garage; and if this was on the applicant's property would not have issue with it.

Mary Smallwood, the adjacent property owner, said the lots are small in the area and that a two-car garage and carport is too much. She said the applicant overtook the 4<sup>th</sup> pin, when they built the garage and should have had the property surveyed then.

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**Rebuttal:**

Mr. Meyers said they are just asking for a variance to approach the property line. He said he's not trying to overtake anyone's property; and could take a couple more inches off the beam if necessary. He said his neighbors' water runoff goes onto his property.

Chair Proffitt asked Mr. Meyers if he knows where the property line is. Mr. Meyers said technically no. Chair Proffitt asked if he would agree to get a survey done so they know the exact location of the property line. Mr. Meyers agreed.

**Deliberation:**

The Board had varied opinions, from wanting to see another survey to concerns with the overhang and water runoff. Chair Proffitt asked Ms. Long, if staff would be in favor of the requests if the technical items in the staff report were addressed and if the applicant provided a survey. Ms. Long said yes.

**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 September 22, 2014 public hearing proceedings.**

**Variance to allow a carport to encroach into the 2-foot side yard:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report not including the staff analysis; the applicant's justification, the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a variance of Section 5.4.1.E.6 of the Land Development Code (LDC) to allow a carport to encroach into the required 2-foot side yard; or 2 inches from the northeast property line; and

**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the carport which approaches the

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property line and extends into the private yard area; and because only a driveway and parking area exist across the property line; and because the applicant agreed to install 1-hour fire-rated columns; downspouts will be directed so water runs either down the driveway or backyard and will provide Planning & Design staff with a certified survey illustrating the property lines; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity because the carport will extend 12' further into the private yard area, the depth of the property is large enough at 250'; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public because no structures exist opposite the carport; and because the applicant agreed to install 1-hour fire-rated columns, and that the downspouts be directed so water runs either down the driveway or backyard and provide a licensed survey illustrating the property lines; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the of the zoning regulations because the regulations are to protect property lines as well as adjacent structures; and because an existing fence marks the property line and no adjacent structures are in the immediate vicinity; and because the applicant has agreed to install 1-hour fire-rated columns, and that the downspouts be directed so water runs either down the driveway or backyard; 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 narrowness of the lot and protecting the camper with a carport requires that the new structure approach the side yard property line; 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 because it is not possible to shift the camper due to the narrowness of the lot and adherence to the regulations would not allow for effective protection;



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**NEW BUSINESS:**

**CASE NO. 14VARIANC1083**

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow the carport to be 2 inches from the northeast property line **ON CONDITION:**

1. The columns to the carport shall be 1-hour fire-rated material.
2. The downspouts will be directed so that water runs either down the driveway or back yard.
3. The applicant will need to obtain a permit for the carport.
4. The applicant will provide Planning & Design staff with a certified land survey illustrating the property lines.

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

**NO: No one.**

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

**ABSTAINING: No one.**

**Waiver to allow the depth of the accessory structure to exceed 60 feet from the alley to 72 feet:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report not including the staff analysis; the applicant's justification, the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a waiver from Section 5.4.1.E.1 of the Land Development Code to allow the depth of the accessory structure to exceed 60 feet from the alley to 72 feet; and

**WHEREAS**, the Board finds that the requested waiver will not adversely affect adjacent property owners because the applicant wants to extend the carport past

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the 60 ft. setback by 12 feet when the length of the property is 250 feet at the rear; and

**WHEREAS**, the Board finds that the waiver will not violate the Comprehensive Plan because a sufficient amount of yard exists to meet all other requirements of the Land Development Code; 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 carport is necessary to protect a small camper, but will only extend as far as necessary to sufficiently cover the camper; 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 without the waiver, would be impossible to protect the camper in an effective and aesthetically pleasing manner; and because more than sufficient private yard will still remain;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waiver to allow the depth of the accessory structure to be 72 feet from the alley.

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

**NO: No one.**

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

**ABSTAINING: No one.**

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**NEW BUSINESS:**

**CASE NO. 14CUP1015**

**Request:** Conditional Use Permit to allow outdoor alcohol sales/consumption and indoor entertainment in a C-1 zoning district.

**Project Name:** Golden Grain Bakery

**Location:** 6917 Southside Drive

**Owner:** Hunt Enterprises, LLC  
Louise Hunt  
14600 Poplar Lane  
Louisville, KY 40299

**Applicant:** Same as owner

**Attorney:** Wyatt Tarrant & Combs  
Cliff Ashburner, Esq.  
500 W. Jefferson Street  
Louisville, KY 40202

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

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 13—Vicki Aubrey Welch**  
**Staff Case Manager: Jon Crumbie, Planner II**  
**(CONTINUED FROM 9/8/14)**

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

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to any interested party prior to the public hearing. (The staff report is part of the case file maintained at the Planning and Design Services offices located at 444 S. 5<sup>th</sup> Street).

**Agency Testimony:**

Staff case manager, Jon Crumbie discussed the case summary, standard of review and staff analysis from the staff report. He said this case was continued because the applicant added indoor entertainment to the outdoor alcohol sales and consumption. The applicant is requesting a modification to standard of review, Item 4.E. (1 and 2) due to the change in the Kentucky Alcoholic Beverage Control (ABC) laws. Mr. Crumbie said the new laws have not been incorporated into the Land Development Code yet.

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

Cliff Ashburner, Esq.

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

Cliff Ashburner, the applicant's attorney, pointed out the egress from the patio to the Board. He said two egress points are not needed since it's so small. Mr. Ashburner said the entertainment will be acoustical or sound track. He said he submitted a revised justification statement.

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

No one.

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

No spoke as an interested party.

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

No one.

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

No one spoke in opposition.

**Deliberation:**

Board of Zoning Adjustment deliberation.

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**NEW BUSINESS:**

**CASE NO. 14CUP1015**

**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 September 22, 2014 public hearing proceedings.**

**Conditional Use Permit to allow outdoor alcohol sales/consumption and indoor entertainment in a C-1 zoning district:**

On a motion by 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, the site plan; the PowerPoint presentations; the evidence, the applicant's revised justification statement, testimony and discussion at the public hearing that the applicant is requesting a Conditional Use Permit to allow outdoor alcohol sales/consumption and indoor entertainment in a C-1 zoning district; and

**WHEREAS**, the Board finds that the subject site is in a Traditional Neighborhood Form District; and

**WHEREAS**, the Board finds that the proposal meets all applicable policies of the Comprehensive Plan; and because lighting will not be added; and

**WHEREAS**, the Board finds that the proposal is compatible with surrounding land uses and the general character of the area because the subject site is located in a commercial area with other restaurants and businesses and is in the center of an existing shopping center of several surrounding neighborhoods; and with a CUP, the patrons can enjoy an alcoholic beverage with their meal on the existing patio which has designated boundaries as required by the ABC law; and because the existing outdoor dining area will be subject to NQ2 licenses already issued for the premises by Louisville Metro ABC; and because service to the outdoor area will close before 1:00 a.m.; and because all commercial uses in the area have similar scale, intensity, traffic, noise and lighting; and

**MINUTES OF THE MEETING  
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**WHEREAS**, the Board finds that the necessary public facilities (both on and off-site), such as transportation, sanitation, water, sewer, drainage, emergency services, education, recreation etc. which is adequate to serve the proposed use because the proposal has been reviewed by Public Works and MSD and both have approved the plan; and

**WHEREAS**, the Board finds that the proposal complies with the specific standards required to obtain the Conditional Use Permit where Item E. states that this CUP shall be limited to restaurant uses in a C-1 zoning district that hold the following types of ABC licenses where Item E (1) and (2) shall be modified because of changes to Kentucky's ABC laws that have not yet been incorporated into the current Land Development Code. The modifications are as follows:

1. Restaurant liquor and wine license by the drink for ~~400~~50 plus seats.
2. Restaurant wine license by the drink for restaurants with seating for 100 and receives at least ~~70%~~50% gross receipts from food sales.

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow outdoor alcohol sales/consumption and indoor entertainment in a C-1 zoning district on the site **SUBJECT** to the following Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for outdoor alcohol sales and consumption and indoor entertainment without further review and approval by the Board.

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

**NO: No one.**

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

**ABSTAINING: No one.**

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

**SEPTEMBER 22, 2014**

The meeting adjourned at 11:36 a.m.

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**CHAIRPERSON**

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**SECRETARY**