

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

May 16, 2016

A meeting of the Louisville Metro Board of Zoning Adjustment was held on May 16, 2016 at 8:30 a.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Mike Allendorf, Chair
Betty Jarboe, Vice Chair
Rosalind Fishman, Secretary
Lester Turner

Members Absent:

Paul Bergmann
Lula Howard
Dean Tharp

Staff Members Present:

Brian Davis, Planning & Design Manager
Steve Hendrix, Planning & Design Supervisor
Ross Allen, Planner I
Jon Crumbie, Planning & Design Coordinator
Joel Dock, Planner I
Jon Baker, Legal Counsel
Sue Reid, Management Assistant
Kristen Loeser, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

May 2, 2016 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:02:51 On a motion by Member Fishman, seconded by Vice Chair Jarboe, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on May 2, 2016.

The vote was as follows:

Yes: Members Fishman, Turner, Vice Chair Jarboe and Chair Allendorf

Absent: Members Tharp, Howard and Bergmann

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BUSINESS SESSION

CASE NUMBER 16VARIANCE1022

Request:	Variances to allow the construction of a proposed Garage (Accessory Structure) to encroach into the side yards setbacks and rear yard setback.
Project Name:	955 Barret Avenue
Location:	955 Barret Avenue
Owner:	Peter L. Bivens – Kentucky Shelters LLC.
Applicant:	Peter L. Bivens – Kentucky Shelters LLC.
Representative:	Peter L. Bivens – Kentucky Shelters LLC.
Jurisdiction:	Louisville Metro
Council District:	8 – Tom Owen
Case Manager:	Ross Allen, Planner I

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

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

Agency Testimony:

00:03:36 Steve Hendrix stated there were no changes, and the adjacent property owners have signed off (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Peter Bivens, 955 Barret Avenue, Louisville, KY **(Mr. Bivens requested to speak prior to the Board Members' vote on this case).**

Summary of testimony of those in favor:

00:06:04 Peter Bivens stated the setbacks as stated were not as requested (see recording for detailed presentation).

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00:08:10 Steve Hendrix clarified that the Staff Report is in error; for the side yard setbacks, the Requirement is 2', the Request is 0', and the Variance is 2'; for the rear yard setback, the Requirement is 5', the Request is 3', and the Variance is 2' (see recording for detailed presentation).

00:10:09 Chair Allendorf asked if these numbers were noticed to the public that signed off on everything, and Mr. Hendrix stated they were and the error was just a typo (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

00:03:46 Board Members' deliberation

00:04:01 On a motion by Member Fishman, seconded by Member Turner, the following resolution was adopted:

Variance #1 from LDC Section 5.4.1.E.5 to allow a proposed garage to encroach into the minimum required side yard setback along the north and south property lines:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the applicant is proposing to construct a garage that is replacing an existing garage at the rear of their property. The proposed garage will build to line in the side yard setbacks and will have 18 inch thick brick layer which meets or exceeds Kentucky Building Code for fire rated construction, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the existing garage, though smaller (one story), is closer to the side yards, both northern and southern adjacent properties, similar to the setbacks of the proposed garage, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since no structures are built to either side of the proposed garage and the existing garage is at a lower grade than both northern and southern adjacent properties, and

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WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the applicant is proposing to construct a garage with a greater setback than is currently the case with the existing garage. Furthermore, the many homes within the general vicinity have elongated lots with side setbacks that are not compliant to LDC code, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone since the applicant has a lot width of 25' ft. To comply with LDC the lot would require setbacks that are 5 feet in each side yard allowing for a structure to have a width of 15' ft. which limits construction in the general vicinity, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant since as stated previously the lot width limits construction on narrow width lots, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought because the applicant is requesting variances from LDC prior to undertaking any construction of the proposed garage; and

Variance #2 from LDC Section 5.4.1.E.2 to allow a proposed garage to encroach into the minimum rear yard setback of 2 feet:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the applicant is proposing to construct a garage that is replacing an existing garage at the rear of their property. The proposed garage will build to line in the side yard setbacks and will have 18 inch thick brick layer which meets or exceeds Kentucky Building Code for fire rated construction, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the existing garage, though smaller, is closer to the rear property line than the proposed garage. In the general vicinity there is a two story carriage house which is set back from the alley curb by approximately 15 ft., and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since no structures are built to either side of the

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proposed garage, as well, the proposed garage will have a greater setback than the existing garage increasing width in the alley, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the applicant is proposing to construct a garage with a greater setback than is currently the case with the existing garage. Furthermore, the many homes within the general vicinity have elongated lots with side setbacks that are not compliant to LDC code, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone since the applicant has a lot width of 25' ft. To comply with LDC the lot would require setbacks that are 5 feet in each side yard allowing for a structure to have a width of 15' ft. which limits construction in the general vicinity, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant since as stated previously the lot width limits construction on narrow width lots, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought because the applicant is requesting variances from LDC prior to undertaking any construction of the proposed garage; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1022, does hereby **APPROVE** Variance #1 from LDC Section 5.4.1.E.5 to allow a proposed garage to encroach into the minimum required side yard setback along the north and south property lines (**Requirement 2', Request 0', Variance 2'**), and Variance #2 from LDC Section 5.4.1.E.2 to allow a proposed garage to encroach into the minimum rear yard setback by 2 feet (**Requirement 5', Request 3', Variance 2'**), based on the Staff Report.

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The vote was as follows:

Yes: Members Fishman, Turner, Vice Chair Jarboe and Chair Allendorf

Absent: Members Tharp, Howard and Bergmann

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CASE NUMBER 16VARIANCE1018

Request: Variance to allow a driveway and the edge of an attached garage to encroach into the minimum side yard setback.

Project Name: 551 Barberry Avenue
Location: 551 Barberry Avenue
Owner: Russell Smith
Applicant: Rebecca D. Northup – Thomas, Dodson & Wolford, PLLC
Representative: Rebecca D. Northup – Thomas, Dodson & Wolford, PLLC
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
Case Manager: Ross Allen, Planner I

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

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

Agency Testimony:

00:11:42 Steve Hendrix stated there are no changes and the neighbors have signed off (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition to the request:

No one spoke.

00:11:51 Board Members' deliberation

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CASE NUMBER 16VARIANCE1018

00:12:04 On a motion by Vice Chair Jarboe, seconded by Board Member Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the applicant has an existing two car garage that has been in place prior to the current LDC regulations and is applying for relief from the current LDC, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since many homes in the general vicinity were constructed in the mid 1930's, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the 4 foot encroachment into the side yard setback does not encroach upon the adjacent property and to date has not created issue with the adjoining property north of the property line, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since setbacks would not have been present for the 1931 zoning regulations, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone since many of the homes in the general vicinity would have been constructed when (1930's) zoning would not have had setbacks at the time of construction, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since the applicant would be required to reconstruct the existing garage and driveway to conform to current LDC to be in compliance, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the applicant is requesting a variance to come into compliance with the Land Development Code as of April 26, 2016; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1018, does hereby **APPROVE**, Variance from LDC

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CASE NUMBER 16VARIANCE1018

Section 5.3.1 table 5.3.1 Dimensional Standards – Residential Development to encroach into the minimum required side yard setback (**Requirement 5', Request 1', Variance 4'**), based on the Staff Report.

The vote was as follows:

Yes: Members Fishman, Turner, Vice Chair Jarboe and Chair Allendorf

Absent: Members Tharp, Howard and Bergmann

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CASE NUMBER 16CUP1016

Request: Modification of a Conditional Use Permit to allow a 6,000 square feet mechanical building addition
Project Name: Norton Audubon Hospital expansion
Location: One Audubon Plaza Drive
Owner: HCP Louisville, Inc.
Applicant: Norton Hospitals, Inc.
Representative: Chris Brown
Jurisdiction: Louisville Metro
Council District: 10 – Pat Mulvihill
Case Manager: Jon E. Crumbie, Planning and Design Coordinator

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

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

Agency Testimony:

00:13:30 Jon Crumbie presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition to the request:

No one spoke.

00:14:50 Board Members' deliberation

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CASE NUMBER 16CUP1016

00:15:41 On a motion by Vice Chair Jarboe, seconded by Board Member Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that Norton Hospitals Inc. was recently approved a revised plan and modified conditional use permit to allow an expansion of the existing medical facilities and its associated parking on the property at One Audubon Plaza Drive, and

WHEREAS, the Board further finds that the current proposal is a subsequent two story, 6,000 SF mechanical building addition. The need for this building was determined during the construction phase of the previously approved plans from cases 15CUP1049 and 15DEVPLAN1204, and

WHEREAS, the Board further finds that the addition is below the threshold for staff approval of the revised detailed district development plan, and

WHEREAS, the Board further finds that the modification of the conditional use permit is minor in nature, and

WHEREAS, the Board further finds that the plan conforms to all previous approved binding elements and conditions of approval; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1016, does hereby **APPROVE** the Modification of a Conditional Use Permit to allow a 6,000 square feet mechanical building addition per the site plan.

The vote was as follows:

Yes: Members Fishman, Turner, Vice Chair Jarboe and Chair Allendorf
Absent: Members Tharp, Howard and Bergmann

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CASE NUMBER 14CUP1003

Request: Conditional Use Permit Condition of Approval
Extension
Project Name: Truck & Trailer Staging
Location: 151 & 201 Cabel Street
Owner: Swift Pork Company
Applicant: JBS USA, LLC & Swift Pork Company
Representative: Glenn Price
Jurisdiction: Louisville Metro
Council District: 4—David Tandy
Case Manager: Steve Hendrix, Planning and Design Supervisor

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

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

Agency Testimony:

00:16:53 Steve Hendrix stated that the applicant has requested this case be heard on June 6, 2016 (see staff report and recording for detailed presentation).

00:17:00 Chair Allendorf asked Mr. Hendrix why they wanted to push this to June 6th. Mr. Hendrix stated there was some discussion regarding noticing. Jon Baker asked Mr. Hendrix if he had correspondence from those representing Swift and the Butchertown Neighborhood Association that explains that both are okay with this continuance, and Mr. Hendrix stated he does (see recording for detailed presentation).

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition to the request:

No one spoke.

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CASE NUMBER 14CUP1003

00:18:01 On a motion by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 14CUP1003 to the June 6, 2016 Board of Zoning Adjustment hearing, based on the staff report acknowledging that both parties involved have agreed to the change of date.

The vote was as follows:

Yes: Members Fishman, Turner, Vice Chair Jarboe and Chair Allendorf
Absent: Members Tharp, Howard and Bergmann

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PUBLIC HEARING

CASE NUMBER 16VARIANCE1013

Request:	Variance from the Land Development Code to allow the construction of a proposed dormer to encroach into the minimum side yard setback.
Project Name:	1904 Stevens Avenue
Location:	1904 Stevens Avenue
Owner:	John Gatchel
Applicant:	John Gatchel
Representative:	John Gatchel
Jurisdiction:	Louisville Metro
Council District:	8 – Tom Owen
Case Manager:	Ross Allen, Planner I

Note: This case was heard out of order, as the second Public Hearing item.

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

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

Agency Testimony:

00:20:54 Ross Allen presented the case and showed a Powerpoint presentation. Mr. Allen responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Dan Madryga, 414 Baxter Avenue, Suite 101, Louisville, KY

Summary of testimony of those in favor:

00:24:04 Dan Madryga spoke in favor of the request (see recording for detailed presentation).

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The following spoke in opposition to the request:

No one spoke.

00:25:08 Board Members' deliberation

00:25:45 On a motion by Member Fishman, seconded by Member Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the proposed dormer encroaching within the minimum side yard setback will be in accordance with fire code regulations. However, along the western side there is approximately 12 inches between each structures guttering and property lines are hard to determine since a 42 inch sidewalk runs between the two properties, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the dormer addition will consist of materials that are currently matching the principal structure. Many of the homes in the general vicinity sit in close proximity to the property lines, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the proposed dormers will be setback from the front façade of the existing house. This will reduce the visual impact when viewed from the street. However, along the western side there is approximately 12 inches between each structures guttering, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the dormer will not encroach any farther than the existing setback conditions of the house, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since many of the homes on the same side of the street have setbacks less than 3 feet while many homes on the northern side of Stevens Ave. have setbacks greater than or equal to the required three feet, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or

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create an unnecessary hardship on the applicant since the current zoning regulations would prevent the dormer from providing code compliant head clearance above an existing staircase, and

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

RESOLVED, that the Louisville Metro Board of Zoning Adjustment in Case Number 16VARIANCE1013 does hereby **APPROVE** Variance from LDC Section 5.2.2 table 5.2.2 to encroach into the minimum side yard setback of 3 feet (**Requirement 3', Request .77', Variance 2.23'**), based on the Staff Report, the discussion, and the presentation.

The vote was as follows:

Yes: Members Fishman, Turner, Vice Chair Jarboe and Chair Allendorf
Absent: Members Tharp, Howard and Bergmann

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PUBLIC HEARING

CASE NUMBER 16VARIANCE1011

Request: Variance from the Development Code (St. Matthews) to allow a proposed fence to exceed the maximum height.
Project Name: 230 Monohan Drive
Location: 230 Monohan Drive
Owner: Natalie Wilkerson
Applicant: Kurt Legel
Representative: Kurt Legel
Jurisdiction: City of St. Matthews
Council District: 26 – Brent T. Ackerson
Case Manager: Ross Allen, Planner I

Note: This case was heard out of order, as the third Public Hearing item.

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

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

Agency Testimony:

00:27:54 Ross Allen presented the case and showed a Powerpoint presentation. Mr. Allen responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Natalie Wilkerson, 230 Monohan Drive, Louisville, KY

Summary of testimony of those in favor:

00:32:41 Natalie Wilkerson spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 16VARIANCE1011

The following spoke in opposition to the request:

No one spoke.

00:36:56 Board Members' deliberation

00:37:28 On a motion by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the fence is outside of the sight triangle (corner of Monohan Dr. and Winchester Road) and does not encroach within the public right of way, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since two homes north of the applicant's property along Winchester Road have fences similar fences, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the proposed fence will be within the applicant's side yard area setback at a distance of approximately 19 feet from the edge of pavement on Winchester Road and approximately 36 feet from the edge of pavement on Monohan Drive, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since zoning regulations permit fences up to a height of 4 feet, the applicant is proposing 6 feet height outside of the sight triangle and not encroaching in the public right of way for privacy, and

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

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and create an unnecessary hardship on the applicant since the proposed fence is for privacy along a local road (Winchester Ave.). The applicant states that

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Winchester Road is heavily travelled by walkers and vehicles and the fence screens the private yard area for unwanted noise, and

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

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1011, does hereby **APPROVE** Variance from the Development Code (St. Matthews) Section 9.1.B.1.a to allow a proposed fence height to exceed the maximum 4' height in a street side yard (**Requirement 4', Request 6', Variance 2'**), based on the applicant's justification of seeking privacy on a corner lot and the yard dimensions do not seem to interfere with any other residential areas, and the Staff Report.

The vote was as follows:

Yes: Members Fishman, Turner, Vice Chair Jarboe and Chair Allendorf

Absent: Members Tharp, Howard and Bergmann

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CASE NUMBER 16VARIANCE1026

Request: Variance from LDC section 5.4.1.D.2 to allow a private yard area to be less than the required percentage (30%) as the result of a covered deck addition to the rear of the principal structure and variance to allow the deck to encroach into the side yard setback.

Project Name: 156 Pennsylvania Avenue
Location: 156 Pennsylvania Avenue
Owner: Mike Fallot
Applicant: Richard Matheny – Cardinal Surveying
Representative: Richard Matheny – Cardinal Surveying
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
Case Manager: Ross Allen, Planner I

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

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

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

Agency Testimony:

00:20:02 Ross Allen stated this case has been withdrawn by Kathy Matheny with Cardinal Surveying on behalf of the applicant (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

No one spoke.

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The following spoke in opposition to the request:

No one spoke.

This case was **WITHDRAWN**, therefore, no vote or action was taken.

00:40:00 The meeting was recessed.

00:40:11 The meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 16VARIANCE1017

Request: Variance from the Land Development Code (LDC), section 5.3.1.C to allow the height of a proposed structure to exceed the maximum requirement.

Project Name: River City Bank
Location: 14000 Shelbyville Road
Owner: River City Bank
Applicant: River City Bank
Representative: Lockett & Farley _ Kelley Parker
Jurisdiction: Louisville Metro
Council District: 29 – Dan Johnson
Case Manager: Joel P. Dock, Planner I

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

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

Agency Testimony:

00:40:31 Joel Dock presented the case and showed a Powerpoint presentation. Mr. Dock responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Kelley Parker, Lockett & Farley, 737 S. Third Street, Louisville, KY

Summary of testimony of those in favor:

00:45:11 Kelley Parker spoke on behalf of the applicant in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 16VARIANCE1017

The following spoke in opposition to the request:

No one spoke.

00:46:53 Board Members' deliberation

00:47:40 On a motion by Member Fishman, seconded by Member Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety, or welfare as the proposed additional height does not appear to impact site lines for safe pedestrian or vehicular movement on nearby roadways, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the site is surrounded by, and proposed to be surrounded by, a nursing facility and a mixture of commercial uses to which the architectural style of the proposed structure will be compatible, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed use and height necessary for the proposed architectural style of this use will provide a potential 1st order good or service to nearby residents and is connected by public sidewalks to other nearby establishments, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed style of architecture is compatible with surrounding uses within the immediate vicinity and the wider area, as well as being below the maximum height for residential uses within the same form district, and

WHEREAS, the Board further finds that the variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as all non-residential uses under 5,000 SF within the Neighborhood form district are restricted to a maximum building height of 25 feet, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as the proposed style of architecture for the proposed bank is compatible with

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nearby uses. Additionally, the proposed height does not create any adverse risk to the public health, safety, or welfare or cause a nuisance to the public, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1017, does hereby **APPROVE** Variance from the Land Development Code (LDC) Section 5.3.1.C to allow the height of a proposed structure to exceed the maximum requirement (**Requirement 25', Request 27'5", Variance 2'5"**), based on the discussion and the Staff Report.

The vote was as follows:

Yes: Members Fishman, Turner, Vice Chair Jarboe and Chair Allendorf
Absent: Members Tharp, Howard and Bergmann

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CASE NUMBER 16CUP1009

Request: Modified Conditional Use Permit and landscape waiver to allow additional storage units in a C-2 zoning district
Project Name: Mini-Warehouse Facility
Location: 8202 and 8204 National Turnpike
Owner: Valley Station Towne Center, LLC
Applicant: Land Design & Development
Representative: Derek Triplett
Jurisdiction: Louisville Metro
Council District: 13 – Vicki Welch
Case Manager: Jon E. Crumbie, Planning and Design Coordinator

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

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

Agency Testimony:

00:50:30 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Ann Richard, Land Design & Development, 503 Washburn Ave., Louisville, KY 40222

Summary of testimony of those in favor:

00:56:08 Ann Richard spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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01:03:26 Board Members' deliberation

01:06:59 On a motion by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

Modified Conditional Use Permit to allow additional storage units in a C-2 zoning district:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the property shall be landscaped so as to blend in with the surrounding area and shall be screened and buffered from adjacent uses of a non-industrial nature, and

WHEREAS, the Board further finds that Item B of the Standard of Review and Staff Analysis for Conditional Use Permits on page 3 of the Staff Report is modified to allow the proposed Mini-Warehouse to be located along the south property line, and

WHEREAS, the Board further finds that no outside storage shall be allowed on the property, and

WHEREAS, the Board further finds that no storage of toxic or hazardous materials shall be allowed on the property, and

WHEREAS, the Board further finds that there shall be no retail or wholesale sales or distributing activities on site, and

WHEREAS, the Board further finds that no structure on the site shall be taller than one story and shall not exceed 15 feet in height (except for one freestanding sign as allowed below), and

WHEREAS, the Board further finds that only one freestanding sign shall be allowed and shall conform to limits established for the form district in which the sign is located; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1009, does hereby **APPROVE** the Modified Conditional Use Permit to allow additional storage units in a C-2 zoning district, based on the applicant's justifications and the site plan.

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The vote was as follows:

Yes: Members Fishman, Vice Chair Jarboe and Chair Allendorf

No: Member Turner

Absent: Members Tharp, Howard and Bergmann

01:09:00 On a motion by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

Landscape Waiver to allow an easement overlap along the front property line:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the area is located along the front property line adjacent to National Turnpike, and

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

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WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the waiver would allow landscaping along the front property line, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since landscaping would not be allowed in the easement, and

WHEREAS, the Board further finds that the required plantings will still be added. Being that there is no landscaping in the right-of-way currently, this will be an upgrade from existing conditions, and

WHEREAS, the Board further finds that the required plantings will still be installed; providing vehicular use area screening and tree canopy, and

WHEREAS, the Board further finds that the requested waiver is the minimum necessary to afford relief to the applicant, and

WHEREAS, the Board further finds that strict application of the regulation would create an unnecessary hardship on the applicant. Due to numerous utility easements running across the front of the property, in order for the landscape buffer area to have less than a 50% overlap of utility easement, it would have to be 35' from the property line. This is an unreasonable distance to satisfy a 15' LBA requirement. The intent of the regulation will be met by providing the required plantings and screening, which is greater than the majority of the neighboring properties, most of which have zero screening along the right-of-way; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1009, does hereby **APPROVE** the Landscape Waiver to allow an easement overlap along the front property line (**Requirement 50%, Request 100%, Waiver 50%**), based on the Staff Report Standard of Review and Staff Analysis for Waivers on page 2 and 3 and the applicant's justification on page 7 of 8.

The vote was as follows:

Yes: Members Fishman, Turner, Vice Chair Jarboe and Chair Allendorf
Absent: Members Tharp, Howard and Bergmann

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CASE NUMBER 15CUP1009

Request: Conditional Use Permit to allow a rehabilitation home
in an R-5 zoning district
Project Name: House of Omega
Location: 1625 Catalpa Street
Owner: Kevin Wilson
Applicant: Kevin Wilson
Representative: Eddie Crutcher
Jurisdiction: Louisville Metro
Council District: 3 – Mary Woolridge
Case Manager: Jon E. Crumbie, Planning and Design Coordinator

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

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

Agency Testimony:

01:11:01 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Kevin Wilson, 9415 Stone Landing Place, Louisville, KY 40272
Eddie Crutcher, 11615 Tazwell Drive, Louisville, KY 40245
LaShawn Anderson Monroe, 9204 Labow Court, Louisville, KY 40299
Jaycee Jones Britt, 6425 Cottage Meadow Drive, Louisville, KY 40218

Summary of testimony of those in favor:

01:18:54 Eddie Crutcher spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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01:25:20 Kevin Wilson spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:27:08 LaShawn Anderson Monroe spoke in favor of the request (see recording for detailed presentation).

01:29:13 Jaycee Jones Britt spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition to the request:

Stephanie K. Benson, 1710 Charlestown Road, Jeffersonville, IN
Sam D. Benson, 1622 Catalpa Street, Louisville, KY 40211

Summary of testimony of those in opposition:

01:30:37 Stephanie Benson spoke in opposition to the request (see recording for detailed presentation).

01:34:30 Sam Benson spoke in opposition to the request and responded to questions from the Board Members (see recording for detailed presentation).

01:36:00 Stephanie Benson continued to speak in opposition to the request (see recording for detailed presentation).

REBUTTAL:

01:38:09 Kevin Wilson and Eddie Crutcher spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke neither for nor against the request:

Antwan J. Cosby, Sr., 1631 Catalpa Street, Louisville, KY 40211

Summary of testimony of those neither for nor against:

01:55:08 Antwan J. Cosby, Sr. spoke neither for nor against the request and responded to questions from the Board Members (see recording for detailed presentation).

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Additional testimony in opposition:

01:58:30 Stephanie Benson spoke again in opposition (see recording for detailed presentation).

REBUTTAL:

02:01:26 Kevin Wilson and Eddie Crutcher spoke again in rebuttal (see recording for detailed presentation).

Additional testimony neither for nor against:

Robbie McQueary, 645 Lindell Avenue, Louisville, KY

Summary of testimony:

02:04:00 Robbie McQueary spoke neither for nor against the request (see recording for detailed presentation).

REBUTTAL:

02:06:33 Kevin Wilson and Eddie Crutcher spoke again in rebuttal (see recording for detailed presentation).

02:10:38 **Board Members' deliberation**

02:17:12 **Public Hearing reopened to hear additional testimony from Kevin Wilson and Eddie Crutcher regarding the anticipated role of the Executive Board (see recording for detailed presentation).**

02:32:03 **Board Members' deliberation**

02:38:27 On a motion by Vice Chair Jarboe, seconded by Member Turner, the following resolution was adopted:

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RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 15CUP1009, does hereby **CONTINUE** the case to the **June 20, 2016** Board of Zoning Adjustment meeting to allow the applicant to provide further information to the Board which would include an operational floor plan to show how these residents will be managed within the home, to define the function of what may already be an existing Executive Board and to further define the efforts before the next hearing as to public meetings that would be conducted for the purpose of identifying advocates on their behalf that would serve as an Advisory Board representing the community nearby and to describe specifically their function such as how often they will meet and what responsibilities they may contribute to the rehabilitation home. The Board also requests minutes and attendance of any public meetings held, as well as how many residents the rehabilitation home will start with and how additional population will be developed.

The vote was as follows:

Yes: Members Fishman, Turner, Vice Chair Jarboe and Chair Allendorf

Absent: Members Tharp, Howard and Bergmann

02:42:52 Meeting was recessed.

02:43:17 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 15CUP1045

Request: Conditional Use Permit to allow an earth excavation/fill, minor operation in an R-4 zoning district
Project Name: None
Location: 1521 Penile Road
Owner: Robert Carter, Jr.
Applicant: Robert Carter, Jr.
Representative: Mark Madison
Jurisdiction: Louisville Metro
Council District: 13 – Vicki Welch
Case Manager: Jon E. Crumbie, Planning and Design Coordinator

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

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

Agency testimony:

02:43:36 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Mark Madison, Milestone Design Group, 108 Daventry Lane, Louisville, KY 40223

Robert Carter, 6345 Strawberry Lane, Louisville, KY 40214

Summary of testimony of those in favor:

02:50:42 Mark Madison spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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03:03:39 Robert Carter spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

Carolyn Miller, 2003 Penile Road, Louisville, KY 40272

Theresa Cardwell, 1600 Spirit Drive, Louisville, KY 40272

Stella Bohannon, 9806 Penile Court, Louisville, KY 40272

James Little, 1700 Penile Road, Louisville, KY 40272

Robert Little, 1410 Penile Road, Louisville, KY 40272

Marilyn Weaver, 1700 Penile Road, Louisville, KY 40272

Summary of testimony of those in opposition:

03:09:27 Carolyn Miller spoke in opposition to the request and responded to questions from the Board Members (see recording for detailed presentation).

03:22:16 Theresa Cardwell spoke in opposition to the request (see recording for detailed presentation).

03:25:43 Stella Bohannon spoke in opposition to the request and responded to questions from the Board Members (see recording for detailed presentation).

03:27:22 James Little spoke in opposition to the request (see recording for detailed presentation).

03:30:01 Robert Little spoke in opposition to the request and responded to questions from the Board Members (see recording for detailed presentation).

03:33:17 Marilyn Weaver spoke in opposition to the request (see recording for detailed presentation).

REBUTTAL:

03:35:56 Mark Madison spoke in rebuttal. Mr. Madison stated that Mr. McGinty had been present this morning and filled out a speaker form to speak in favor of this request, however, he had to leave. Mr. Madison responded to questions from the Board Members (see recording for detailed presentation).

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03:43:24 Robert Carter spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

03:51:57 Mark Madison spoke in rebuttal along with Mr. Carter in response to questions from the Board Members (see recording for detailed presentation).

03:55:04 Theresa Cardwell asked a question of Mr. Carter in regard to expansion of this project. Jon Baker, Legal Counsel, responded to Ms. Cardwell as to what would be allowed in the event this case is approved (see recording for detailed presentation).

03:56:33 Board Members' deliberation

04:08:40 Public Hearing reopened to allow Mr. Carter to respond to questions from the Board Members (see recording for detailed presentation).

04:13:20 Board Members' deliberation

04:24:09 On a motion by Member Fishman, seconded by Member Turner, the following resolution was adopted:

Conditional Use Permit to allow an earth excavation/fill, minor operation in an R-4 zoning district:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the applicable policies of the Comprehensive Plan. No lighting or signage will be added. The applicant is proposing landscaping along a portion of the east property line. Right-of-way dedication and sight line clearing required, and

WHEREAS, the Board further finds that the subject site is located in an area that has a number of large tracts of land. This proposal will be compatible with these uses with respect to drainage, odor and appearance, and

WHEREAS, the Board further finds that the proposal has been reviewed by Public Works and MSD and both have approved the plan. The Fairdale Fire Protection District did not comment on the proposal, and

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WHEREAS, the Board further finds that a plan for minor excavations and/or filling must receive approval from the Metropolitan Sewer District, and the director of the Planning Commission with review and comment by the Soil Conservation Service. **Staff did not receive any comments from the Soil Conservation Service**, and

WHEREAS, the Board further finds that no excavation shall be below the normal water table, nor shall such operation have an adverse effect on the supply, quality, or purity of ground water or wells, and

WHEREAS, the Board further finds that the finished surface of the site shall bear the proper relationship to that of adjoining properties, and

WHEREAS, the Board further finds that excavation and fill materials shall be moved off and on the site in vehicles approved by the City of Louisville and Jefferson County, and

WHEREAS, the Board further finds that the operation shall be conducted so as not to create a nuisance or cause undue noise, vibration, dust, odor, or candescence to adjacent properties. The premises shall be kept in a neat and clean condition at all times. No loose paper or debris shall be allowed on the site except on areas where active filling operations are taking place. Dusty conditions shall be corrected by sprinkling with water or by the use of calcium chloride or some other approved method. No fires shall be permitted. Any smoldering flame or spontaneous combustion shall be immediately extinguished, and

WHEREAS, the Board further finds that in no event will the premises be used for salvage operations of any kind. No separation or picking of waste materials will be permitted. All unacceptable fill materials as noted elsewhere in this section shall be removed from the premises immediately after delivery, and

WHEREAS, the Board further finds that no building or structure shall be erected in connection with the operation, and

WHEREAS, the Board further finds that fill material shall be limited to nonpolluting, inorganic, non-combustible materials and soil. Rubber tires, dead animals, and by-product wastes of a gaseous liquid, or semi- liquid nature such as tar, paints, solvents, sludge, rubber, and plastics and other flame or fume producers shall not be permitted as fill material, and

WHEREAS, the Board further finds that time limits and stabilization measures on completion shall be specified; now, therefore be it

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RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 15CUP1045, does hereby **APPROVE** the Conditional Use Permit to allow an earth excavation/fill, minor operation in an R-4 zoning district, based on the discussion, the input from members of the audience, testimony from the owner, and the Staff Report Standard of Review and Staff Analysis for Conditional Use Permits, especially items A through H and J on pages 2 and 3, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for an earth excavation/minor fill operation without further review and approval by the Board.
3. Neighborhood Protection - The operation shall be conducted in such a manner as to offer protection to the neighborhood against possible detrimental effects, taking into consideration the physical relationship to surrounding properties and access to the site including any nearby local (residential) streets.
4. All deliveries of materials to the site shall be done between the hours of 7:00 A.M. and 6:00 P.M. on weekdays only.
5. With the berm itself, the majority of the dirt is to be brought in and not out with the exception of the general notes under the site plan that was dated April 7, 2016, Number 9, which indicates that all fill material should be limited to non-polluting, inorganic, non-combustible materials and soil. Rubber tires, dead animals and by-product waste of gases, liquid, or semi-liquid nature such as tar, paints, solvents, sludge, rubber, plastics and other flame or fume products shall not be permitted as fill material.

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The vote was as follows:

Yes: Members Fishman, Turner, Vice Chair Jarboe and Chair Allendorf

Absent: Members Tharp, Howard and Bergmann

04:31:33 On a motion by Member Fishman, seconded by Member Turner, the following resolution was adopted:

Alternative Landscape Plan:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 15CUP1045, does here **APPROVE** the Alternative Landscape Plan, based on the site plan dated April 7, 2016.

The vote was as follows:

Yes: Members Fishman, Turner, Vice Chair Jarboe and Chair Allendorf

Absent: Members Tharp, Howard and Bergmann

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ADJOURNMENT

The meeting adjourned at approximately 1:21 p.m.

Chair

Secretary