

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

**FEBRUARY 1, 2016**

A meeting of the Louisville Metro Board of Zoning Adjustment was held at 8:30.A.M. on Monday, February 1, 2016, 514 West Liberty Street, Old Jail Building, Old Jail Court Room, Louisville, Kentucky.

**Members present:**

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

**Members absent:**

No one

**Staff members present:**

Emily Liu, Director, Planning & Design Services  
Joe Reverman, Assistant Director Planning & Design Services  
John Carroll, Legal Counsel  
Steve Hendrix, Planning Supervisor  
Jon Crumbie, Planning Coordinator  
Joel Dock, Planner I  
Ross Allen, Planner I  
Sherie Long, Landscape Architect  
Beth Stevenson, Management Assistant

\*Member Jarboe left the meeting at approximately 8:45 a.m.

The following cases were heard:

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**APPROVAL OF MINUTES**

**JANUARY 11, 2016 BOARD OF ZONING ADJUSTMENT MEETING MINUTES**

Member Jarboe noted a correction to the January 11, 2016 meeting minutes.

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

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on January 11, 2016 as amended.

**YES: Members Fishman, Jarboe, Tharp, Turner and Allendorf**

**NO: No one.**

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

**ABSTAINING: Member Bergmann.**

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**ELECTION OF VICE CHAIRPERSON**

Member Fishman nominated Member Jarboe as Vice Chairperson of the Louisville Metro Board of Zoning Adjustment.

There being no more nominations, the election was closed and the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPOINT** Member Betty Jarboe as Vice Chairperson.

The Board by general consensus approved the nomination with the following vote:

**YES: Members Fishman, Jarboe, Tharp, Turner, Bergmann and Allendorf**

**NO: No one.**

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

**ABSTAINING: No one.**

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**BUSINESS SESSION:**

**CASE NO. 15CUP1048**

**Request:** Modification of a Conditional Use Permit from the Development Code to allow a proposed 9,278 SF emergency room addition.

**Project Name:** Baptist Hospital East

**Location:** 4000 Kresge Way

**Owner:** Baptist Healthcare System, Inc.  
John Barrett, Director  
4001 Kresge Way  
Louisville, KY 40207

**Applicant:** Baptist Health Louisville  
Cling Kaho  
4000 Kresge Way  
Louisville, KY 40207

**Attorney:** Bardenwerper, Talbott & Roberts  
Bill Bardenwerper  
1000 N. Hurstbourne Parkway  
Louisville, KY 40223

**Representative:** Heritage Engineering  
John Campbell  
642 South 4<sup>th</sup> Street, Suite 100  
Louisville, KY 40202

**Jurisdiction:** St. Matthews

**COUNCIL DISTRICT:** 26—Brent Ackerson  
**Staff Case Manager:** Jon Crumbie, Planning Coordinator

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

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On December 14, 2015, the applicant requested a modification of the approved Conditional Use Permit (CUP) to allow site plan revisions to allow a 9,278 SF emergency room expansion to the existing building at 4000 Kresge Way. The original CUP was modified on several occasions, most recently in August 2012.

On February 1, 2016, the Board held a meeting for a non-hearing Modified Conditional Use Permit which was held in business session. A drawing showing the premises affected and the existing and/or proposed construction was presented to each Board member.

**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 February 1, 2016 business session proceedings.**

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

**WHEREAS**, the Board finds from the file of this case, the information submitted by the applicant; the site plan; that the applicant is requesting a modification of an approved Conditional Use Permit from the Development Code to allow a proposed 9,278 SF emergency room addition; and

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

**NOW, THEREFORE, BE IT RESOLVED**, that the modification of the existing Conditional Use Permit is hereby **APPROVED**, for revisions to the site plan to allow a 9,278 SF emergency room expansion to the existing building at 4000 Kresge Way based on the previously approved conditions of approval.

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**YES: Members Fishman, Tharp, Turner, Bergmann and Allendorf**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Jarboe**

**ABSTAINING: No one.**

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**NEW BUSINESS:**

**CASE NO. B-17728-12**

**Requests:** A Conditional Use Permit from the Land Development Code to allow an indoor recycling center in an M-2 zoning district; a Sidewalk Waiver to omit the required sidewalk along Dixie Highway; and Landscape Waivers to omit the required buffering and plantings along the north, south and west property lines.

**Project Name:** Dixie Scrap Metal

**Location:** 13817 Dixie Highway

**Owner:** Shelby Givens  
9214 Donerail Way  
Louisville, KY 40272

**Applicant:** James Chestnut  
13817 Dixie Highway  
Louisville, KY 40272

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 14—Cindi Fowler**  
**Staff Case Manager: Jon Crumbie, Planning Coordinator**  
**(CONTINUED FROM DECEMBER 21, 2015)**

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, Jon Crumbie discussed the case summary, standard of review and staff analysis from the staff report. He said this case was continued

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from December 21, 2015 to allow the applicant time to get a license to operate and a plan for vehicle cleaning. He said the license cannot be issued until the CUP is approved; and that the applicant did not give him a plan for vehicle cleaning. John Carroll, the Board's attorney, asked about the violations. Mr. Crumbie said the applicant will need approval for the CUP before he can receive the license from Waste Management. He said there are also maintenance violations on this property that will need to be resolved.

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

James Chestnut.

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

James Chestnut, the applicant, said he submitted the application for the permit and paid the fees, but needs approval of the CUP before the permit will be issued. He said he has cleaned up the site and installed rocks over the dirt area to prevent dirt from trailing out onto Dixie Highway. Mr. Chestnut said it would be cost prohibitive to install truck washing equipment due to the expense and other permits he would need. He said other recycling businesses in Louisville do not have these, including one of the largest, Grade A Allstate Auto Parts and Recycling. Mr. Chestnut showed the Board pictures on his phone regarding this and said he would submit them to staff for the file. Member Fishman asked about the landscape waivers. Mr. Chestnut said it would interfere with where he parks the trucks on the lot; and if he planted anything along the railroad, would have to seek approval. Member Bergmann recommended adding some landscaping to enhance the appearance.

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

No one.

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

No one.

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

No one.

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

No one.



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**Deliberation:**

Member Fishman said the applicant will need to submit a letter from the owner regarding the right-of-way through property; and modify Item B for not installing the truck wash; and to submit the permit to staff once received. Member Bergmann said the applicant still has room on the property to plant landscaping; which would make it look nicer for the homes that are facing this business. Chair Allendorf said he could add the colored vinyl screening to the chain link fence to conceal. Chair Allendorf said there is no room for sidewalks in the area.

**Back into Public Hearing:**

Mr. Chestnut said he already has the slates to add the colored vinyl screening; and that this is required by the state.

**Back into Deliberation/Business Session:**

No further discussion.

**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 February 1, 2016 public hearing proceedings.**

**Conditional Use Permit—To allow an indoor recycling center in an M-2 zoning district:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review, the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a Conditional Use Permit to allow an indoor recycling center in an M-2 zoning district; and

**WHEREAS**, the Board finds that the proposal is consistent with the applicable policies of the Comprehensive Plan because there are other industrial zoned properties in the area; and because the proposal integrates into the existing pattern of development; and because the applicant will resolve the code

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violations with the proper city department; and because the applicant is requesting sidewalk and landscape waivers; and

**WHEREAS**, the Board finds that the proposal is compatible with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise etc. because the subject site is located in an area with mixed uses; and because most of the uses have similar scale, intensity, traffic, noise and lighting; and because residential uses are located to the west of the subject site; and because the applicant will be installing the colored vinyl sheath to the chain link fence for aesthetic appearance; and

**WHEREAS**, the Board finds that the necessary public facilities (both on and off-site) such as transportation, sanitation, water, sewer, drainage etc. because the proposal has been preliminarily approved by Transportation Planning/Public Works and MSD; and

**WHEREAS**, the Board finds that the proposal complies with some of the specific standards required to obtain a Conditional Use Permit where the Board shall modify Item A. for the time being because the applicant does not have the required license to operate from the Jefferson County Waste Management District because they require approval of the CUP by the Board first; and because the Board shall also modify Item B. because the applicant will not provide a truck washing area on the site because rocks were added to reduce the amount of dirt, mud and other debris out onto Dixie Highway and other roads; and the Board shall modify Item C. because a required fence is not located along the south property line because the applicant utilizes this area for parking large trucks for the business; and the Board shall modify Item c. because the building will be 135 feet from a residential district since the existing building has been in existence for many years;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow an indoor recycling center in an M-2 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.

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2. The Conditional Use Permit shall be “exercised” as described in KRS 100.237 within two years of the Board’s approval on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for an indoor recycling facility without further review and approval by the Board.
3. The applicant shall submit the license to operate the recycling business from the Jefferson County Waste Management District (SWR 20.0) to staff.
4. The applicant shall submit a cross over access agreement from the owner of the subject property to staff.
5. The applicant will install the vinyl covering around the chain link fence.

**YES: Members Fishman, Tharp, Turner, Bergmann and Allendorf**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Jarboe**

**ABSTAINING: No one.**

**Sidewalk Waiver—To not provide a sidewalk along Dixie Highway:**

On a motion by Member Fishman, seconded by Member Turner, 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 presentation(s); the evidence, testimony and discussion at the public hearing that the applicant is requesting a sidewalk waiver from the Land Development Code to not provide a sidewalk along Dixie Highway; and

**WHEREAS**, the Board finds that the requested sidewalk waiver will not adversely affect adjacent property owners since there are no sidewalks in the public right-of-way along this portion of Dixie Highway to support pedestrians and transit use; and

**WHEREAS**, the Board finds that the waiver will not violate specific guidelines of Cornerstone 2020 because Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway systems and to

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ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development; and because Guideline 9, Policy 1 states that new development should provide where appropriate, for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate but there are no existing sidewalks in the public right-of-way along this portion of Dixie Highway to support pedestrians and transit use; 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 there are no existing sidewalks in the general area to connect to; and

**WHEREAS**, the Board finds that the strict application of the regulation would create an unnecessary hardship on the applicant because they would have to bear the cost of 200 feet of sidewalk when there are none in the vicinity;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the sidewalk waiver to not provide a sidewalk along Dixie Highway.

**YES: Members Fishman, Tharp, Turner, Bergmann and Allendorf**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Jarboe**

**ABSTAINING: No one.**

**Landscape Waiver—To omit the Landscape Buffer Area (LBA) along the North, South and West property lines:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review, the site plan; the PowerPoint presentation(s); the evidence, testimony and discussion at the public hearing that the applicant is requesting a landscape waiver to omit the LBA along the north, south and west property lines; and

**WHEREAS**, the Board finds that the requested landscape waiver will not adversely affect adjacent property owners since the condition has currently

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existed on site for a number of years; and because it does not appear that the approved landscaping was ever implemented by the owner; and

**WHEREAS**, the Board finds that the waiver will not violate specific guidelines of Cornerstone 2020 which calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate; and because Guideline 3, Policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances; and because Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered; and because Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas; and because Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses; and because the intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants; and

**WHEREAS**, the Board finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the applicant was not the tenant when the landscaping was approved in 1992; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because he would have to revise the site plan and add buffering and landscaping;

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**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the landscape waiver to omit the LBA along the north, south and west property lines.

**YES: Members Fishman, Tharp, Turner and Allendorf**

**NO: Member Bergmann.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Jarboe**

**ABSTAINING: No one.**

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**NEW BUSINESS:**

**CASE NO. 15VARIANCE1062**

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

**Project Name:** Islamic Center

**Location:** 4104 River Road

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

**Applicant:** Same as Owner

**Attorney:** Dinsmore & Shohl, LLP  
Cliff Ashburner, Attorney  
101 S. 5<sup>th</sup> Street, Suite 2500  
Louisville, KY 40202

**Jurisdiction:** Indian Hills

**COUNCIL DISTRICT 7—Angela Leet**

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

**(CONTINUED FROM NOVEMBER 16, 2015 AND DECEMBER 7, 2015)**

**APPLICANT WILL BE ASKING FOR ANOTHER CONTINUANCE**

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

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**NEW BUSINESS:**

**CASE NO. 15VARIANCE1062**

**DISCUSSION:**

Cliff Ashburner, the applicant's attorney, said they would like to continue this case until March 7, 2016 to hire someone to prepare the plan.

**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 February 1, 2016 public hearing proceedings.**

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

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case No. 15VARIANCE1062 to **MARCH 7, 2016**.

**YES: Members Fishman, Tharp, Turner, Bergmann and Allendorf**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Jarboe**

**ABSTAINING: No one.**



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**NEW BUSINESS:**

**CASE NO. 15VARIANCE1093**

**Request:** Variance from the Land Development Code to allow the construction of a single family residence in the Protected Waterway Buffer of Pope Lick Creek on proposed Lot 1; and a waiver to allow individual direct single family access to a collector-level roadway.

**Project Name:** 2500 S. Pope Lick Road

**Location:** 2500 S. Pope Lick Road

**Owner:** John G. Gutterman  
2227 S. Pope Lick Road  
Louisville, KY 40299

**Applicant:** Same as Owner

**Representative:** CRP & Associates, Inc.  
Charles Podgursky  
7321 New LaGrange Road  
Louisville, KY 40222

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 20—Stuart Benson**

**Staff Case Manager: Joel P. Dock, Planner I**

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

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

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**NEW BUSINESS:**

**CASE NO. 15VARIANCE1093**

**Agency Testimony:**

Staff Case Manager, Joel Dock discussed the case summary, standard of review and staff analysis from the staff report. He said the applicant is proposing to construct a single family house in the 100' Protected Waterway Buffer of Pope Lick Creek and install a 15' wide driveway to S. Pope Lick Road. He said the variance doesn't meet all the standard of review requirements; but does for the waiver

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

Charles Podgursky.

**Summary of testimony of those in favor and questions from the Board:**

Charles Podgursky, the applicant's representative, said he is requesting a variance to build within the protected waterway for Lot 1. He said the driveway will be on the north side which is the best place for it. Chair Allendorf asked Mr. Podgursky to point out the local floodplain on the PowerPoint picture. Mr. Podgursky said the mechanicals would have to be located above the first floor. Member Bergmann said the lot will encroach into a protected waterway. Mr. Podgursky said a lot of people build in the floodplain; and that this is a nice lot for a house. Member Fishman asked Mr. Dock about the site visits. Mr. Dock said he and Brian Davis went to the site twice, once after the rain, and that there was not standing water on either of the lots.

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

No one.

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

No one.

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

No one.

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

No one.

**Deliberation:**

Member Fishman said she has concerns about the variance adversely affecting the public health, safety and welfare due to the encroachment into the protected

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waterway. Member Bergmann agreed and said this will create problems for the floodplain in the future.

**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 February 1, 2016 public hearing proceedings.**

**Variance—To allow for the construction of a single family residence in the Protected Waterway Buffer of Pope Lick Creek on proposed Lot 1:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the portions of the standard of review and 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 Section 4.8 and Table 4.8.1 of the Land Development Code to allow the construction of a single family residence in the Protected Waterway Buffer of Pope Lick Creek on proposed Lot 1; and

**WHEREAS**, the Board finds that the requested variance will adversely affect the public health, safety or welfare as the proposed encroachment into the protected waterway buffer is not in keeping with the purpose and intent of protected waterways established in LDC 4.8.1, specifically parts III-v: (ii) locate development, where possible, in areas that do not have severe environmental limitations and to protect natural areas and features as a part of development planning, by designating buffer areas that will guide future development adjacent to protected waterways; (iv) to minimize water pollution, including sediment and other pollutants in surface runoff; to promote bank stabilization; to protect riparian wetlands and their wildlife habitats; (v) generally to promote land use policies which will maintain or improve water quality levels; and

**WHEREAS**, the Board finds that the variance will cause a hazard or nuisance to the public because long term impact of altering the vegetation and run-off flowing into the stream within the limits of the buffer may have substantial negative

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impacts of the stability of the ecosystem and water-quality; and because there are two intermittent streams which were not shown on the plan to the North and South of the proposed structure that flow into Pope Lick Creek that have the potential to be impacted by the proposal through clearing and grading of their vegetative protection along the banks; and

**WHEREAS**, the Board finds that the requested variance will allow an unreasonable circumvention of the zoning regulations as proposed Lot 1 is a 2-acre lot to the north of roughly 6 additional acres of vacant developed land that has large portions available for residential home construction that are outside the limits of the protected waterway buffer, thus, having a lesser impact of the ecosystem of Pope Lick Creek and the larger Floyd's Fork watershed; and

**WHEREAS**, the Board 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 any property abutting Pope Lick Creek is subject to the same protected waterway buffer standards established by Chapter 4, Section 8 of the Land Development Code; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship as the lot on which the home is proposed, was not a legally created lot in existence prior to the adoption of the regulations of Chapter 4, Section 8; and

**WHEREAS**, the Board finds that the variance is not necessary with regard to the protected waterway buffer variance, Section 4.8.4.B of the Land Development Code because the requirements of this section do not represent an extreme hardship such that minimal or no reasonable economic use of the land is available without reducing the width of the required LBA as proposed Lot 1 is a 2-acre lot to the north of roughly 6 additional acres of vacant development land that has large portions available for residential home construction that are outside the limits of the protected waterway buffer; additionally, proposed Lot 1, is not a legally created lot in existence prior to the adoption of these regulations; and

**WHEREAS**, the Board finds that the size, shape or topography of the property, as of March 1, 2003, is such that it is possible to construct a single family detached dwelling without encroaching into the required Buffer Area as proposed

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Lot 1 is not a legally created lot in existence prior to the adoption of these regulations and there remains roughly 6 acres of developable land to the south on this same property; and

**WHEREAS**, the Board finds that the encroachment into the required Buffer Area has been limited to the proposed use on this proposed lot, as the home is requested to be built at the minimum front setback, but has not been minimized when considering the overall land available for development of this parcel; and

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the variance to allow the construction of a proposed single family residence in the Protected Waterway Buffer of Pope Lick Creek on proposed Lot 1.

**YES: Members Fishman, Tharp, Turner, Bergmann and Allendorf**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Jarboe**

**ABSTAINING: No one.**

**The Board did not act on the waiver since the variance was denied.**

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**FEBRUARY 1, 2016**

**NEW BUSINESS:**

**CASE NO. 15VARIANCE1085**

**Request:** Variance from the Land Development Code to allow a proposed new garage to exceed the maximum setback from an alley.

**Project Name:** New Garage

**Location:** 2025 Baringer Avenue

**Owner:** Dennis Hesthaven  
2025 Baringer Avenue  
Louisville, KY 40204

**Applicant:** Same as Owner

**Representative:** Purofirst Disaster Service  
Shane Karimi  
2251 Stanley Gault Parkway  
Louisville, KY 40223

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 8—Tom Owen**

**Staff Case Manager: Ross Allen, Planner I**

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

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

**Agency Testimony:**

Staff Case Manager, Ross Allen discussed the case summary, standard of review and staff analysis from the staff report. He said the applicant is requesting approval of a variance to allow a proposed new garage to exceed the

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maximum setback from the alley. He said there are other similar garages in the area with the same setback, so it will be compatible with the area. Member Fishman asked if they submitted renderings of the garage; and had questions about any gutter overhang. Mr. Allen said the applicant received a Certificate of Appropriateness from the Cherokee Triangle Preservation District which regulates design standards.

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

Shane Karimi.

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

Shane Karimi, the applicant's representative, explained how the garage would be placed on the property leaving more green space between the house and the proposed garage. He said the setback from the alley is similar to other garages in the neighborhood. Chair Allendorf asked about the gutters. Mr. Karimi said he will make sure the gutters are not protruding into the neighbors' yards and direct the downspouts toward the alley.

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

No one.

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

No one.

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

No one.

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

No one.

**Deliberation:**

Member Fishman said she is not opposed since the gutter issue has been resolved.

**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**

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**obtain a copy. The recording of this hearing will be found on the CD of the February 1, 2016 public hearing proceedings.**

**Variance—To allow a proposed new garage to exceed the maximum setback from the alley:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a variance from Section 5.4.1.E.2 of the Land Development Code to allow a proposed new garage to be 3 feet from the rear alley (requirement 5 feet; or a variance of 2 feet); and

**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the proposed new garage will have a similar setback to an adjacent garage in the alley; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity since the applicant has received a Certificate of Appropriateness from Historic Landmarks and Preservation Districts which regulates design standards; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public since existing garages in the general vicinity appear to have less than the required 5' minimum rear yard setback; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations since the applicant previously had a garage on the subject site; 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 there is only on-street parking in a dense residential neighborhood;



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**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow a new garage to be 3 feet from the rear alley.

**YES: Members Fishman, Tharp, Turner, Bergmann and Allendorf**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Jarboe**

**ABSTAINING: No one.**

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**FEBRUARY 1, 2016**

**NEW BUSINESS:**

**CASE NO. 15VARIANCE1086**

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

**Project Name:** Fence

**Location:** 233 South Hubbards Lane

**Owner:** Scott Redding  
233 S. Hubbards Lane  
Louisville, KY 40207

**Applicant:** Same as Owner

**Jurisdiction:** St. Matthews

**COUNCIL DISTRICT 26-Brent Ackerson**

**Staff Case Manager: Ross Allen, Planner I**

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

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

**Agency Testimony:**

Staff Case Manager, Ross Allen, discussed the case summary, standard of review and staff analysis from the staff report. He said the applicant is requesting a variance to allow a proposed fence to be 6 ft. in height. The requirement is 4 feet. Mr. Allen said Jack Ruf, Zoning and Code Enforcement officer with the City of St. Matthews told him the applicant needs a survey to ensure the fence is not in the right-of-way.

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**NEW BUSINESS:**

**CASE NO. 15VARIANCE1086**

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

Jack Ruf, AICP, Zoning and Code Enforcement Officer for the City of St. Matthews, 3940 Grandview Avenue, St. Matthews, KY 40207.

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

Jack Ruf explained how he believes the existing fence is in the right-of-way; and said the applicant would need a variance for the entire new fence. He said St. Matthews would not make the applicant take down the existing fence but can't allow a new taller fence in the right-of-way. Mr. Ruf said he spoke with the applicant regarding the need for a survey. Member Turner asked if there are any similar fences in the neighborhood. Mr. Ruf said there is a fence to the east, but doesn't encroach into the right-of-way.

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

Scott Redding, the owner.

**Discussion:**

Chair Allendorf asked the owner if he would like to get a survey before continuing the hearing.

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

Scott Redding, the owner, said he has not had time to get a survey; but would move the fence back 16 feet so it wouldn't be in the right-of-way. He said he would like an attractive, taller wooden privacy fence due to the busy intersection along his house.

**Discussion:**

Chair Allendorf asked Mr. Ruf, if moving the fence back 16 feet would suffice. Mr. Ruf said no since it would be guessing. Chair Allendorf said the Board could approve on condition that the applicant submit the survey; and that the fence will not be located in the right-of-way. Mr. Ruf said this would be acceptable to him.

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

No one.

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

No one.

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**Deliberation:**

Member Bergmann reiterated that the fence cannot be in the right of way. Member Fishman said someone sent in an e-mail that they did not want a “fortress” type fence. Chair Allendorf said the Board could add a condition of approval to add landscaping around the fence to soften the appearance.

**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 February 1, 2016 public hearing proceedings.**

**Variance—To allow a proposed fence to exceed the maximum height along the front, side and rear yard:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a variance from Section 9.1 of the Development Code to allow a proposed 6-ft. tall wooden privacy fence to exceed the maximum height along the front, side and rear yard (requirement 4 ft. tall; or a 2 ft. variance; and

**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the proposed 6 ft. tall wooden privacy fence will not obstruct views for vehicular and pedestrian traffic; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity since the applicant currently has an existing fence on the property; and

**WHEREAS**, the Board finds that variance will not cause a hazard or nuisance to the public since the proposed fence will be out of the sight triangle as determined by the Development Code; and

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**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations since the applicant currently has an existing white picket fence on a corner lot; and is proposing a fence that will allow for more privacy at a busy intersection; and because there are other similar style fences in the vicinity; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and/or create an unnecessary hardship on the applicant since the fence will allow for more privacy at a busy intersection along Hubbards Lane;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow a proposed wooden privacy fence to be 6 feet tall along the front, side and rear yards **ON CONDITION:**

1. The applicant shall submit a survey of the property to staff, so the fence will not be built in the public right-of-way.
2. The applicant shall install landscaping around the fence to soften the appearance.

**YES: Members Fishman, Tharp, Turner, Bergmann and Allendorf**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Jarboe**

**ABSTAINING: No one.**

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**FEBRUARY 1, 2016**

**NEW BUSINESS:**

**CASE NO. 15CUP1027 & 15VARIANCE 1092**

**Request:** Applications for a Modified Conditional Use Permit for the construction of an Independent Living Facility called the Meadow; and a variance from the Land Development Code to allow a proposed structure to exceed the maximum height.

**Project Name:** Masonic Homes – The Meadow Independent Living

**Location:** 200 Mason Home Drive

**Owner:** Masonic Homes of Kentucky, Inc.  
Gary Marsh  
3761 Johnson Hall Drive  
Masonic Homes, KY 40041

**Applicant:** Same as Owner

**Attorney:** Dinsmore & Shohl  
Cliff Ashburner, Esq.  
101 S. 5<sup>th</sup> Street, Suite 2500  
Louisville, KY 40202

**Representative:** QK4  
Ashley Bartley  
1046 E. Chestnut Street  
Louisville, KY 40204

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 9—Bill Hollander**

**Staff Case Manager: Jon Crumbie, Planning Coordinator**

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. The applicant is proposing a 124 unit independent, three-story living facility at the southeastern portion in the Masonic Homes property. He said no new access or changes to the existing access to abutting street is being requested with this proposal. Member Bergmann said he's concerned about the way it backs up to homes on the east side considering they are proposing 3-stories. Mr. Crumbie said the applicant submitted findings of fact/justification statement after he completed the staff report, and submitted these to the Board.

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

Cliff Ashburner, Attorney.

Ashley Bartley.

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

Cliff Ashburner, the applicant's attorney, said the proposal will be for elderly independent living apartments. He said the request meets the requirements of the Land Development Code with the exception of the variance for the height of the building (3-stories).

Ashley Bartley, the applicant's representative, said they sent out 422 notices to inform people living in the area of their proposal including a volunteer neighborhood meeting which had a good turnout. She said the apartments will have vaulted ceilings and upscale architecture. Member Bergmann asked about the landscaping. Ms. Bartley said they will have a 6-8 ft. tall wooden privacy fence; the existing trees will remain and add the required landscaping.

Mr. Ashburner said that 300 people have already expressed interest in living here. He said the development has a unified plan for circulation and will be pedestrian friendly.

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**CASE NO. 15CUP1027 & 15VARIANCE 1092**

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

Jack Ruf, Zoning & Code Enforcement Officer with the City of St. Matthews, 3940 Grandview Avenue, St. Matthews, KY 40207.

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

Jack Ruf said the city is not opposed to the development of the campus as long as it doesn't negatively affect people that live near it. He said this is a piecemeal development since there is no master plan for the property. Mr. Ruf said area residents do not want Elmwood or Washington Square opened for access; and that people that live along Elmwood have sewer problems. He said MSD will be doing a camera inspection, but hasn't heard back from them.

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

No one.

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

No one.

**Rebuttal:**

Mr. Ashburner said they are not asking for access from Elmwood at this time; and said the rendering in the PowerPoint is incorrect showing this access. He said the plan is correct. Mr. Ashburner said MSD maintains and will upgrade the sewer if necessary.

**Deliberation:**

John Carroll, the Board's legal counsel, said if the Board will be approving the request, that it be approved on condition that the Planning Commission approves the revised plan. Member Fishman said she is okay with the request as long as the access and sewage issues are resolved.

**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 February 1, 2016 public hearing proceedings.**



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**NEW BUSINESS:**

**CASE NO. 15CUP1027 & 15VARIANCE 1092**

**Variance—To allow a proposed structure to exceed the maximum height:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence including the applicant's findings of fact, testimony and discussion at the public hearing that the applicant is requesting a variance from Section 11.5A.1.B of the Land Development Code to allow a proposed structure to exceed the maximum height to 45 feet (requirement 35' tall; or a variance of 10'); and

**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the proposed structure height increase would not be noticeable from the street or adjacent properties; and because the proposed Meadow building will be similar in massing and height to other buildings on the Masonic Homes campus and has been designed to blend into the campus using building materials and design elements to match the existing buildings; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity because the proposed structure will be compatible with the existing structures on the site; and because the proposed Meadow building will be contained within and accessed through the existing Masonic Homes campus and has been designed to blend into the campus; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public because the proposed structure will be approximately 70 feet from the nearest residential property along Staebler Avenue; and because the proposed Meadow building will be similar in size and scale to buildings on the campus, both historic and new, adding to the overall cohesive design of the campus; and

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**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the variance is internal to the site and will be in keeping with the existing historic campus setting; and because the maximum height listed for a residential use in the Campus Form District is three stories or thirty-five feet tall, but interior ceiling heights have grown since the adoption of the code and thirty-five feet of building height will not allow for the construction of a three-story structure with contemporary ceiling heights; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by preventing the construction of a three-story building, even though that is what the Campus Form District allows; and

**WHEREAS**, the Board finds that the circumstances are not the result of actions taken by the applicant subsequent to the adoption of the height limitation but are instead the result of an inconsistency in the Land Development Code that seems to favor lowered ceiling heights when contemporary building standards do not;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow the proposed Meadow Independent Living facility to be 45 feet tall.

**YES: Members Fishman, Tharp, Turner, Bergmann and Allendorf**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Jarboe**

**ABSTAINING: No one.**

**Modified Conditional Use Permit to allow an Independent Living Facility:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review, the site plan; the PowerPoint presentations; the evidence including the applicant's findings of fact, testimony and discussion at the public hearing that the applicant is requesting a Modified Conditional Use Permit from Section 11.5.A.1.B of the Land Development Code to allow an Independent Living Facility (The Meadow) on the Masonic Homes campus; and

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**WHEREAS**, the Board finds that the proposed development complies with Cornerstone 2020 Comprehensive Plan; and because the subject site is in the Campus Form District where the proposed development contributes to a compact, walkable, open campus setting with multiple buildings surrounding common open space; and

**WHEREAS**, the Board finds that the proposal complies with Guideline 3—Compatibility, because the proposed building is of a style and material similar to other buildings on the Masonic Home campus; and because the proposed development (age restricted independent living) will generate a low volume of traffic and present an additional housing type on the Masonic Homes campus; and because the proposal is located near transit and medical facilities; and because the proposal will be accessible to those with handicaps; and because the proposed development has been designed to comply with the Land Development Code and the prevailing development patterns on the Masonic Homes campus; and

**WHEREAS**, the Board finds that the proposed development complies with Guideline 4—Open Space, because the overall Masonic Homes campus retains a significant amount of common open space; and because the individual building will have outdoor recreational areas included and access to common open space; and

**WHEREAS**, the Board finds that the proposal complies with Guideline 5—Natural Areas and Scenic and Historic Resources because the applicant is proposing to develop an area of the campus that has no structures on it, which will allow for the preservation of the vista from the entrance to the Olmstead; and because there are no distinctive natural features on the subject property; and

**WHEREAS**, the Board finds that the proposal complies with Guideline 7—Circulation, because the proposal will use existing access points and shared infrastructure within the Masonic Homes campus to access the new proposed independent living facility; and because the overall Masonic Homes campus has a unified plan of access and circulation that includes driveways and sidewalks and because the proposed modifications to the campus do not include the opening of any access to streets to the east of the overall campus; and

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**WHEREAS**, the Board finds that the proposal complies with Guideline 9—Bicycle, Pedestrian and Transit because the overall Masonic Homes campus is and will remain pedestrian friendly; and

**WHEREAS**, the Board finds that the proposal complies with Guideline 10—Flooding and Storm Water, because the overall campus retains a significant amount of open space and because the plans have been reviewed and preliminarily approved by the Metropolitan Sewer District (MSD), the agency in charge of development review regarding storm water; and

**WHEREAS**, the Board finds that the proposal complies with Guideline 11—Water Quality, because the applicant has incorporated water quality measures in compliance with MSD regulations; and

**WHEREAS**, the Board finds that the proposal complies with Guideline 13—Landscape Character because the applicant is proposing significant landscaping along the exterior property lines of the campus; and because the applicant will provide additional tree canopy and landscaping throughout the site; and

**WHEREAS**, the Board finds that the proposal is in compliance with Cornerstone 2020 because it is compatible with the remainder of the Masonic Homes campus as well as the neighborhoods surrounding it; and

**WHEREAS**, the Board finds that the Metropolitan Sewer District and Louisville Metro Public Works have both reviewed and preliminarily approved the Modified Conditional Use Permit plans evidencing the service of the subject property by sewers and roads; and because the site is already served by all other necessary utilities;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Modified Conditional Use Permit to allow an Independent Living Facility on the site **ON CONDITION** that the Planning Commission approves the Revised Plan; and all previous conditions of approval remain in effect.

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**YES: Members Fishman, Tharp, Turner, Bergmann and Allendorf**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Jarboe**

**ABSTAINING: No one.**

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**FEBRUARY 1, 2016**

**NEW BUSINESS:**

**CASE NO. 15CUP1036 & 15VARIANCE1091**

**Request:** Modified Conditional Use Permit from the Land Development Code for an Assisted Living Facility (Grove Pointe). The variance was withdrawn from this request.

**Project Name:** Masonic Homes--Grove Pointe Assisted Living

**Location:** 240 Masonic Home Drive

**Owner:** Masonic Homes of KY, Inc.  
Gary Marsh, President & CEO  
3761 Johnson Hall Drive  
Masonic Home, KY 40041

**Applicant:** Same as Owner

**Attorney:** Dinsmore & Shohl, LLP  
Cliff Ashburner, Esq.  
101 S. 5<sup>th</sup> Street, Suite 2500  
Louisville, KY 40202

**Representative:** QK4  
Ashley Bartley  
1046 East Chestnut Street  
Louisville, KY 40204

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 9—Bill Hollander**

**Staff Case Manager: Jon Crumbie, Planning Coordinator**

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

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

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

**Agency Testimony:**

Staff case manager, Jon Crumbie discussed the case summary, standard of review and staff analysis from the staff report. He said the applicant is proposing to construct a 72-unit assisted living facility on the Mason Homes property. He a new two-story brick building will be erected to replace the existing building. Mr. Crumbie said if the Board approves the request will require a condition of approval that the Planning Commission approves the revised plan with associated binding elements on February 18, 2016.

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

Cliff Ashburner.

Ashley Bartley.

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

Cliff Ashburner, the applicant's attorney, presented a PowerPoint presentation to the Board; and submitted revised findings of fact into the record. He said they withdrew the variance request, so the proposal meets all the requirements of the Land Development Code. He said the proposed development should not impact anyone off site; and that the parking is predominantly for the staff. MSD and Public Works have preliminarily approved the plan.

Ashley Bartley, the applicant's representative, said they sent out 400 notices to inform adjacent property owners of their proposal and conducted a volunteer neighborhood meeting. She said the existing building will be demolished for a new assisted living facility building that will only be two stories. She said there is a reduction in impervious service; and if approved, construction will start in 2017.

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

Jack Ruf, Zoning and Code Enforcement Officer for the City of St. Matthews, 2940 Grand Avenue, St. Matthews, KY 40207.

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

Jack Ruf said he was asked to be present today by the City of St. Matthews so their interests are not compromised. Mr. Ruf asked to have some time to read

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the revised findings of fact that were just submitted. He said that a plan has not been submitted regarding on site circulation other than what's existing.

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

No one.

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

No one.

**Rebuttal:**

Mr. Ashburner said Cornerstone 2020 was adopted in 2000; and that Masonic Homes has occupied this property for 75 years. He said this is in a Campus Form District and includes a unified circulation plan, and said he doesn't know what other plan should be submitted regarding this; also, that Public Works has approved the plan.

Member Fishman asked if any streets would be opened for access along the east side. Mr. Ashburner said no, that it is not part of the proposal today.

**Deliberation:**

John Carroll, the Board's legal counsel, said the request needs to be approved on condition that the Planning Commission approves the revised plan. Chair Allendorf said MSD will handle the sewer lines; and that it would be beneficial to include an emergency access road at some point in time.

**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 February 1, 2016 public hearing proceedings.**

**Modified Conditional Use Permit to allow an Assisted Living Facility:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review, the site plan; the PowerPoint presentations; the evidence



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**NEW BUSINESS:**

**CASE NO. 15CUP1036 & 15VARIANCE1091**

including the applicant's findings of fact submitted at the public hearing, testimony and discussion at the public hearing that the applicant is requesting a Conditional Use Permit to allow an Assisted Living Facility in an R-5A zoning district; and

**WHEREAS**, the Board finds that the subject property is in the Campus Form District and the proposed development presents a compact, walkable, open campus setting with multiple buildings surrounding common open space; and

**WHEREAS**, the Board finds that the proposed development is compliant with Guideline 3-Compatibility, because the proposed buildings are of a style and material similar to other buildings on the Masonic Home campus; and because the proposed assisted living development will generate a low volume of traffic and present an additional housing type on the Masonic Home campus; and because the property is located near transit and medical facilities; and because it will be accessible to those with handicaps; and will be designed to comply with the Land Development Code and prevailing development patterns on the campus; and

**WHEREAS**, the Board finds that the proposal complies with Guideline 4—Open Space, because the overall Masonic Homes campus retains a significant amount of common open space; and the individual building will have outdoor recreational areas included and access to common open space; and

**WHEREAS**, the Board finds that the proposal complies with Guideline 5—Natural Areas and Scenic and Historic Resources because the applicant is proposing to reuse a portion of the single building to be removed as a feature in the Mason Homes common open space areas and because there are no distinctive natural features on the subject property; and

**WHEREAS**, the Board finds that the proposal complies with Guideline 7—Circulation because the proposal will use existing access points and shared infrastructure within the Masonic Homes campus to access the new proposed assisted living facility; and because the overall Masonic Homes campus has a unified plan of access and circulation that includes driveways and sidewalks; and because the proposed modifications to the campus do not include the opening of any access to streets to the east of the overall campus; and

**MINUTES OF THE MEETING  
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**WHEREAS**, the Board finds that the proposed development complies with Guideline 9—Bicycle and Pedestrian and Transit because the overall Masonic Homes campus is and will remain pedestrian friendly; and

**WHEREAS**, the Board finds that the proposal complies with Guideline 10—Flooding and Storm Water because the overall campus retains a significant amount of open space; and because the plans have been reviewed and preliminarily approved by the Metropolitan Sewer District (MSD), the agency in charge of development review regarding storm water; and

**WHEREAS**, the Board finds that the proposal complies with Guideline 11—Water Quality, because the applicant has incorporated water quality measures in compliance with MSD regulations

**WHEREAS**, the Board finds that the proposal complies with Guideline 13—Landscape Character, because the applicant is proposing significant landscaping along the exterior property lines of the campus; and will provide additional tree canopy and landscaping throughout the site; and

**WHEREAS**, the Board finds that the proposal complies with the provisions of the Land Development Code and Cornerstone 2020 Comprehensive Plan because the proposed development is compatible with the remainder of the Masonic Home campus as well as the neighborhoods surrounding it; and

**WHEREAS**, the Board finds that MSD and Louisville Metro Public Works have both reviewed and preliminarily approved the modified CUP plans evidencing the service of the subject property by sewers and roads; and because the site is already served by all other necessary utilities;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Modified Conditional Use Permit **ON CONDITION** that the Planning Commission approves the revised plan; and is also subject to the previously approved conditions of approval.

**YES: Members Fishman, Tharp, Turner, Bergmann and Allendorf**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Jarboe**

**ABSTAINING: No one.**

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**NEW BUSINESS:**

**2015 ANNUAL BOZA REPORT:**

Mr. Hendrix discussed the number of cases that were heard in comparison from 2014 to 2015; and that the report included larger developments in the city that the Board approved.

**MINUTES OF THE MEETING  
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**FEBRUARY 1, 2016**

**The meeting adjourned at 12:44 p.m.**

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**CHAIRPERSON**

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**SECRETARY**