

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

**MARCH 21, 2016**

A meeting of the Louisville Metro Board of Zoning Adjustment was held at 8:30.A.M. on Monday, March 21, 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  
Lula Howard

**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  
Brian Davis, Planning Manager  
Jon Crumbie, Planning Coordinator  
Laura Mattingly-Humphrey, Planner I  
Ross Allen, Planner I  
Beth Stevenson, Management Assistant  
Sue Reid, Management Assistant

\*Member Jarboe left the meeting at 11:36 a.m.

The following cases were heard:

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**BOARD MEMBER APPOINTMENT—LULA HOWARD:**

Lula Howard was sworn in by Assistant County Attorney, John Carroll, who took the Oath of Office to be a Member of the Louisville Metro Board of Zoning Adjustment.

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**MARCH 21, 2016**

**APPROVAL OF MINUTES:**

**MARCH 7, 2016 BOARD OF ZONING ADJUSTMENT MEETING MINUTES**

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 **APPROVE** the minutes of the meeting conducted on March 7, 2016.

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

**NO: No one.**

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

**ABSTAINING: Members Allendorf and Howard.**

**MINUTES OF THE MEETING  
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**MARCH 21, 2016**

**BUSINESS SESSION:**

**CASE NO. 13CUP1011**

Request: Status Report as per 13CUP1011, Condition of Approval #5, heard by the Board on March 17, 2014.

Project Name: Status Report

Location: 1200 Story Avenue

Owner: JBS USA, LLC & Swift Pork Company

Applicant: JBS USA LLC

Attorney: Glenn Price & Dennis Conniff

Jurisdiction: Louisville Metro

Council District: 4 – David Tandy

Case Manager: Steve Hendrix—Planning Supervisor

**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.**

**DISCUSSION:**

Glenn Price, attorney for the applicant said they have installed new equipment to control odor.

Dennis Conniff, the applicant's environmental attorney, said the emissions system has been installed and expanded to abate odor. He said they are still working with APCD to do more, and have a permit to test the new AquaCode® system.

Jon Salomon, attorney for the Butchertown Neighborhood Association, said he still believes they are not meeting the standards for the Modified Conditional Use Permit to alleviate odor. He said that JBS/Swift has filed for another Modified

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**BUSINESS SESSION:**

**CASE NO. 13CUP1011**

Conditional Use Permit to allow the construction of a 10,000 sq. ft. building, so the Board could at that time incorporate more conditions of approval.

Mr. Conniff said they should know how the AquaCode® equipment works by the end of June.

Member Bergmann said he would like APCD to attend a meeting and doesn't understand why they haven't been present at any of them thus far. Emily Liu, Planning & Design's Director, said she could ask them to attend or have them submit a letter.

Mr. Salomon said it might be better to have the new hearing in July to hear all the issues at once. Mr. Hendrix said the new hearing is scheduled for April 18, 2016.

**Deliberation:**

Member Allendorf said the Board should allow the new MCUP hearing to be on April 18<sup>th</sup> and have the applicant come back to explain how the new technology is working later.

**No vote required**

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**BUSINESS SESSION:**

**CASE NO. 15CUP1036**

Request: Application for a modification of a Conditional Use Permit (assisted living facility) from the Land Development code to allow an off-street parking lot expansion

Project Name: Masonic Homes

Location: 240 Masonic Home Drive

Owner: Masonic Homes of Kentucky, Inc.

Applicant: Masonic Homes of Kentucky, Inc.

Representative: Ashley Bartley

Jurisdiction: Louisville Metro

Council District: 9 – Bill Hollander

Case Manager: Jon E. Crumbie, Planning and Design Coordinator

Information from the applicant was incorporated into the record. The Board received this information in advance of the meeting, and it 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).

**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.**

On February 1, 2016, the Board approved a modification of the Conditional Use Permit to allow the applicant to construct an assisted living facility called Grove Pointe. The applicant is now asking for another modification to allow an off-street parking lot expansion.

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**MARCH 21, 2016**

**BUSINESS SESSION:**

**CASE NO. 15CUP1036**

On March 21, 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.

**DISCUSSION:**

Staff case manager, Jon Crumbie, explained the revisions to the plan.

**Modified Conditional Use Permit—To allow an off-street parking lot expansion:**

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

**WHEREAS**, the Board finds from the file of this case, the information submitted by the applicant; the site plan; PowerPoint presentations and discussion, that the applicant is requesting a modification of an approved Conditional Use Permit to allow an off-street parking lot expansion; 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;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the modification of the existing Conditional Use Permit to allow an off-street parking expansion and other minor revisions; and is also based on the previously approved conditions of approval.

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

**NO: No one.**

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

**ABSTAINING: Member Howard.**

**MINUTES OF THE MEETING  
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**MARCH 21, 2016**

**BUSINESS SESSION:**

**CASE NO. 15CUP1037**

Request: Application for a modification of a Conditional Use Permit (assisted living facility) from the Land Development Code to remove the proposed sanitary sewer connection to Elmwood Drive

Project Name: Masonic Homes

Location: 200 Masonic Home Drive

Owner: Masonic Homes of Kentucky, Inc.

Applicant: Masonic Homes of Kentucky, Inc.

Representative: Ashley Bartley

Jurisdiction: Louisville Metro

Council District: 9 – Bill Hollander

Case Manager: Jon E. Crumbie, Planning and Design Coordinator

Information from the applicant was incorporated into the record. The Board received this information in advance of the meeting, and it 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).

**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.**

On February 1, 2016, the Board approved a modification of the Conditional Use Permit to allow the applicant to construct an assisted living facility called Grove Pointe. The applicant is now asking for another modification to allow an off-street parking lot expansion.



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**BUSINESS SESSION:**

**CASE NO. 15CUP1037**

On March 21, 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.

**Agency Testimony:**

Staff case manager, Jon Crumbie, presented a PowerPoint presentation to the Board. He said the applicant is changing the sewer hookup closer to Frankfort Avenue; adding a sidewalk and an 8 ft. tall privacy fence.

Member Jarboe asked if the changes are negatively impacting the neighbors'. Mr. Crumbie said that the Planning Commission already approved the new sewer connection; and that the neighbors were in favor of this.

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

Ashley Bartley.

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

Ashley Bartley, the applicant's representative, reiterated that the neighbors' were pleased with changing the location of the sewer connection; and said they have always proposed the 8 ft. tall privacy fence near the adjacent homes.

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

No one.

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

No one.

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

No one.

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

No one.

**Deliberation:**

Board of Zoning Adjustment deliberation.

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**BUSINESS SESSION:**

**CASE NO. 15CUP1037**

**Modified Conditional Use Permit—To move the proposed sanitary sewer connection to Frankfort Avenue instead of Elmwood Avenue:**

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

**WHEREAS**, the Board finds from the file of this case, the information submitted by the applicant; the site plan; PowerPoint presentations and discussion, that the applicant is requesting a modification of an approved Conditional Use Permit to move the proposed sanitary sewer connection to Frankfort Avenue instead of Elmwood Avenue; 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;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the modification of the existing Conditional Use Permit to allow the applicant to move the proposed sanitary sewer connection to Frankfort Avenue and other small revisions; also based on the previously approved conditions of approval.

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

**NO: No one.**

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

**ABSTAINING: Member Howard.**

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**MARCH 21, 2016**

**BUSINESS SESSION:**

**CASE NO. 16CUP1004**

Request: Modified CUP allowing the addition of a volleyball court to a C-1 zoned outdoor recreation area, previous CUP B-17953-12

Project Name: 700 Landis Ridge Drive

Location: 700 Landis Ridge Drive

Owner: Brent Miller - Villages at Idlewild, LLC

Applicant: Chase Miller - Villages at Idlewild, LLC

Representative: Matt Wolff – Sabak, Wilson, and Lingo, Inc.

Jurisdiction: Louisville Metro

Council District: 20 – Stuart Benson

Case Manager: Ross Allen, Planner I

Information from the applicant was incorporated into the record. The Board received this information in advance of the meeting, and it 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).

**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.**

On March 21, 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.

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**BUSINESS SESSION:**

**CASE NO. 16CUP1004**

**DISCUSSION:**

Matt Wolf, the applicant's representative, said they will be installing a retaining wall near the volleyball court. Member Fishman asked if some of the trees will have to be removed. Mr. Wolf said yes.

**Modified Conditional Use Permit—To allow the addition of a volleyball court to a C-1 zoned outdoor recreation area (previous CUP Case No. B-17953-12):**

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

**WHEREAS**, the Board finds from the file of this case, the information submitted by the applicant; the site plan; PowerPoint presentations and discussion, that the applicant is requesting a modification of an approved Conditional Use Permit to allow the addition of a volleyball court to the recreation area; 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;

**RESOLVED**, that the modification of the existing Conditional Use Permit is hereby **APPROVED** for revisions to the site plan to allow the addition of a volleyball court to the existing recreation area; and is based on the previously approved conditions of approval.

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

**NO: No one.**

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

**ABSTAINING: No one.**

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**MARCH 21, 2016**

**BUSINESS SESSION:**

**CASE NO. 16CUP1006**

Request: Modification of a Conditional Use Permit to allow the off-street parking area to be changed

Project Name: Café Press

Location: 11909 Shelbyville Road

Owner: Café Press, Inc.

Applicant: Café Press, Inc.

Representative: William B. Bardenwerper

Jurisdiction: Middletown

Council District: 19 – Julie Denton

Case Manager: Jon E. Crumbie, Planning and Design Coordinator

Information from the applicant was incorporated into the record. The Board received this information in advance of the meeting, and it 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).

**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.**

**DISCUSSION:**

Staff Case Manager, Jon Crumbie, said the applicant is removing a couple of parking spaces to make the detention basin bigger. The number of off-street parking spaces will now be 38, which is still within the required minimum amount.

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**BUSINESS SESSION:**

**CASE NO. 16CUP1006**

**Modified Conditional Use Permit—To change the off-street parking area to allow for a larger detention basin (38 total off-street parking spaces):**

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

**WHEREAS**, the Board finds from the file of this case, the information submitted by the applicant; the site plan; PowerPoint presentations and discussion, that the applicant is requesting a modification of an approved Conditional Use Permit to allow the off-street parking area to be changed to create a larger detention basin for a total of 38 off-street parking spaces; 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;

**RESOLVED**, that the modification of the existing Conditional Use Permit is hereby **APPROVED**, for revisions to the site plan to allow the off-street parking area to be changed to create a larger detention basin for a total of 38 off-street parking spaces based on the previously approved conditions of approval.

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

**NO: No one.**

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

**ABSTAINING: No one.**

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**MARCH 21, 2016**

**BUSINESS SESSION:**

**CASE NO. 16CUP1002**

Request: Modification of a Conditional Use Permit to allow improvements to be made to the existing facilities

Project Name: Louisville International Open Tennis Tournament

Location: 4200 River Road

Owner: Louisville Boat Club

Applicant: Louisville Boat Club

Representative: Cliff Ashburner, Kelli Jones

Jurisdiction: Indian Hills

Council District: 7 – Angela Leet

Case Manager: Jon E. Crumbie, Planning and Design Coordinator

Information from the applicant was incorporated into the record. The Board received this information in advance of the meeting, and it 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).

**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.**

**DISCUSSION:**

Staff Case Manager, Jon Crumbie, explained the request to the Board.

Kelli Jones, the applicant's representative, presented a PowerPoint presentation to the Board; and said that the Louisville Boat Club has been chosen to host the first Louisville International Open tennis tournament in August 2016. Ms. Jones

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explained the improvements both permanent and temporary. She said they held a neighborhood meeting and are working with the neighbors' on their concern (noise, traffic and lighting).

**Modified Conditional Use Permit—To allow permanent and temporary improvements to the Louisville Boat Club:**

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

**WHEREAS**, the Board finds from the file of this case, the information submitted by the applicant (letter dated February 1, 2016); the site plan; PowerPoint presentations and discussion, that the applicant is requesting a modification of an approved Conditional Use Permit to allow both permanent and temporary improvements to the Louisville Boat Club to accommodate the first Louisville International Open tennis tournament in August 2016; 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 improvements both permanent and temporary to the Louisville Boat Club based on the previously approved conditions of approval.

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

**NO: No one.**

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

**ABSTAINING: No one.**



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**MARCH 21, 2016**

**BUSINESS SESSION:**

**CASE NO. 15CUP1038**

Request: Modification of a Conditional Use Permit to allow for an increase in the number of children, employees, and hours of operation for a day care facility.

Project Name: Tomorrow's Future

Location: 2317 W Madison Street

Owner: Dennis Lawrence

Applicant: Sharene Allen-Mask

Representative: Sharene Allen-Mask

Jurisdiction: Louisville Metro

Council District: 4 – David Tandy

Case Manager: Jon E. Crumbie, Planning and Design Coordinator

Information from the applicant was incorporated into the record. The Board received this information in advance of the meeting, and it 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).

**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.**

**DISCUSSION:**

Staff case manager, Jon Crumbie, explained the request and said the applicant had to get approval from MSD. Mr. Crumbie said there have been no notices of violations for this business.

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**MARCH 21, 2016**

**BUSINESS SESSION:**

**CASE NO. 15CUP1038**

**Modified Conditional Use Permit—To allow an increase in the number of children, employees and hours of operation for a day care facility:**

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

**WHEREAS**, the Board finds from the file of this case, the information submitted by the applicant; the site plan; PowerPoint presentations and discussion, that the applicant is requesting a modification of an approved Conditional Use Permit to allow an increase in the number of children, employees and hours of operation for an existing day care facility; 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 an increase in the number of children, employees and hours of operation for an existing day care facility based on the previously approved conditions of approval from December 17, 2012 with the following **changes**:

4. **The daycare shall be open Monday thru Friday from 6:00 a.m. to 12:00 a.m.**
5. **The maximum number of employees on site at any given time shall be 3 to 6.**
6. **The maximum number of kids on site at any given time shall be 32.**

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

**NO: No one.**

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

**ABSTAINING: No one.**

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**MARCH 21, 2016**

**PUBLIC HEARING:**

**CASE NO. 15VARIANCE1094**

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

Project Name: 6714 Crossmoor Lane

Location: 6714 Crossmoor Lane

Owner: George Lynch

Applicant: Mark Brewer

Representative: Mark Brewer

Jurisdiction: City of Graymoor/Devondale

Council District: 7 – Angela Leet

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 proposing a 12' X12' unenclosed front porch which will encroach into the front yard setback. He said there are other porches in the neighborhood, but none that protrude this far. The owner stated that he would like access to his front door if he should later become incapacitated.

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**PUBLIC HEARING:**

**CASE NO. 15VARIANCE1094**

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

Mark Brewer, the applicant's representative.

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

Mark Brewer said the porch will be centered off the windows; and that the owner might add a ramp if he becomes handicapped later. He said the porch will be made with solid materials or synthetic deck material.

Member Fishman asked if there will be any drainage issues. Mr. Brewer said he could install gutters.

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

No one.

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

No one.

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

No one.

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

No one.

**Deliberation:**

The Board determined that a condition of approval should be attached so the applicant installs gutters on both sides of the porch.

**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 March 21, 2016 public hearing proceedings.**

**Variance—To allow a new front porch to encroach into the front yard setback:**

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

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**PUBLIC HEARING:**

**CASE NO. 15VARIANCE1094**

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a variance from the 2006 Land Development Code, Section 5.1.10.C to allow the construction of a new unenclosed porch to be 12 feet from the front property line (requirement 10 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 since the proposed porch will be 20 feet away from the public sidewalk; and because the applicant has agreed to install gutters on both sides of the proposed porch; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity since the porch and roof will blend architecturally with the house

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public since the porch will be on the applicant's property; and because the porch will be 20 feet from the public sidewalk; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations since it allows for an unenclosed porch in the front yard setback in an R-5 zoning district in the Suburban Neighborhood Form District by up to 10 feet; and because the current stoop is 8' X 4' with no cover or awning; and

**WHEREAS**, the Board finds that the variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since some of the homes along Crossmoor Lane already have attached unenclosed porches; 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 since the proposed porch would allow

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**CASE NO. 15VARIANCE1094**

the owner to access the front door should he become handicapped in the future;  
and

**WHEREAS**, the Board finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought since no construction has taken place yet;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow a new 12' X 12' unenclosed porch to encroach in the front yard setback by 2 feet **ON CONDITION** that the applicant install gutters on both sides of the porch.

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

**NO: No one.**

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

**ABSTAINING: No one.**

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**MARCH 21, 2016**

**PUBLIC HEARING:**

**CASE NO. 16APPEAL1000**

Request: An Appeal of a Notice of Violation issued by the Department of Codes and Regulations concerning nonconforming use rights for an accessory apartment in an R-5 zoning district.

Project Name: Carriage House

Location: 4011 Southern Parkway

Owner: Ming Yu

Appellant: Ming Yu

Jurisdiction: Louisville Metro

Council District: 15 –Marianne Butler

Case Manager: Steve Hendrix, Planning and Design Supervisor

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

**Background:**

On November 17, 2015, the Louisville Metro Department of Codes and Regulations issued a Notice of Violation concerning the owner using an outbuilding as an accessory apartment on R-5 zoned property. The owner then filed an appeal of this action.

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**PUBLIC HEARING:**

**CASE NO. 16APPEAL1000**

On March 21, 2016, at a meeting of the Board, a hearing was held on the case. A drawing showing the premises affected and the existing and/or proposed construction was presented to each Board member.

**Agency Testimony:**

Staff case manager, Steve Hendrix, said this property was part of Southern Parkway Area Wide Rezoning that changed the zoning from R-6 (Multi-Family Residential) to R-5 (Single Family Residential) in 2002. The appellant is claiming the accessory apartment was in use prior to the area wide rezoning per information they submitted. Mr. Hendrix said staff's research and information submitted by the appellant supports the fact that it appears that the structure was more than likely used as a separate dwelling unit prior to the area wide rezoning. The previous R-6 zoning would have allowed for multi-family apartments

Member Bergmann questioned if the use was abandoned. Mr. Hendrix said it appeared from his research using city directories, that abandonment did not take place.

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

Ming Yu, 4011 Southern Parkway, Louisville, KY 40214.

Chelsea Yu, 4011 Southern Parkway, Louisville, KY 40214.

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

Ming Yu, the owner of the property, said he bought the property from some friends who had used the structure as a separate apartment. He said the property was previously zoned R-7 and R-6, which would have allowed this use. He said the A/C unit has a date of 1994; and showed a picture of the electrical permit which was also dated 1994. Mr. Yu said the city directory is unreliable, and that the names of his tenants now and in the past are not in it. Mr. Yu said he also submitted an affidavit from two previous owners who also used the building as a rental; and that he's owned the property since 2009 and is just now getting a Notice of Violation. Mr. Yu showed the Board pictures from his smart phone of the interior of the apartment. Member Howard told him to make copies to put in the file. Mr. Yu agreed.



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Chelsea Yu said her and her husband have spent a lot of money remodeling their house and the apartment due to the income they get from the rental. She said they have even let homeless mothers with children live in the apartment without charging them.

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

No one.

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

No one.

**The following spoke in opposition to the appeal:**

No one.

**Summary of testimony of those in opposition to the appeal:**

No one.

**Deliberation:**

The Board agreed that the down zoning that occurred on this property, is the reason for the request; and feels that the non-conforming use rights were not abandoned by the owners.

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning and Design Services offices. Please contact Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the March 21, 2016 public hearing proceedings.**

**Appeal of a Notice of Violation issued by the Department of Codes and Regulations concerning non-conforming use rights for a carriage house:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report, the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that this appeal concerns a Notice of Violation issued by the Department

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of Codes and Regulations concerning non-conforming use rights for an accessory apartment; and

**WHEREAS**, the Board finds that the owner/appellant bought the house and outbuilding in 2009, under the impression that they could also rent it out as an apartment as the two previous owners' had done; and

**WHEREAS**, the Board finds that an area wide rezoning was adopted by the Board of Alderman on June 25, 2002 where it was downzoned from R-6, Multi-Family Residential to R-5 Single Family Residential, so that apartments would have been allowed prior to this date; and

**WHEREAS**, the Board finds that evidence submitted by the appellant supports that the apartment use was not abandoned because the air conditioner and electrical box for the outbuilding were installed in 1994, prior to the area wide rezoning; in addition to a notarized letter from one of the previous owners who also utilized the outbuilding as an apartment in 2007; and because most of the properties on the block are apartments; and because the city directory records show multiple entries listed during the years before the area wide rezoning, indicating that the property was not utilized as just a single family property;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **ACKNOWLEDGE** that non-conforming rights exist for the outbuilding to be used as an accessory apartment on the subject property located at 4011 Southern Parkway; and

**BE IT FURTHER RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Appeal.

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

**NO: No one.**

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

**ABSTAINING: No one.**

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**Notice of Violation proper:**

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

**WHEREAS**, the Board finds that based on the file of this case, the staff report, PowerPoint presentation(s), evidence, testimony and discussion that the Notice of Violation was proper because the subject property was previously downzoned from R-6, Multi-Family Residential to R-5, Single Family Residential in 2002, so the information Codes and Regulations had when issuing the citation was accurate;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby find that the Notice of Violation was proper.

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

**NO: No one.**

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

**ABSTAINING: No one.**

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**CASE NO. 16VARIANCE1010**

Request: Modified Variance to allow attached signage along front façade to exceed maximum allowed square footage.

Project Name: Bashford Manor Walmart

Location: 2020 Bashford Manor Lane

Owner: Walmart Real Estate Business Trust  
2001 SE 10<sup>th</sup> Street  
Bentonville AR 72716

Applicant: Harrison French and Associates  
Brittany Fresh & Associates  
1705 S. Walton Blvd., Suite 3  
Bentonville, AR 72712

Representative: Same as Applicant

Jurisdiction: West Buechel

Council District: 10 – Patrick Mulvihill

Case Manager: Laura Mattingly-Humphrey, 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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**Agency Testimony:**

Staff Case Manager, Laura Mattingly-Humphrey discussed the case summary, standard of review and staff analysis from the staff report. She said Walmart wants to remodel the exterior building along Bashford Manor Lane, which will include replacing existing attached signage and adding two new signs along the front façade, thus increasing the square footage.

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

Brittany Lewis.

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

Brittany Lewis, the applicant's representative, said the new signs will be for the pharmacy drive-thru and for the auto center which will make it easier for people to navigate through the large parking lot.

Member Jarboe asked if they considered smaller signs. Ms. Lewis said no because the façade is very large in addition to the parking lot. Member Allendorf stated that the buildings are also far from Bashford Manor Lane.

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

No one.

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

No one.

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

No one.

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

No one.

**Deliberation:**

Board of Zoning Adjustment deliberation.

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

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**obtain a copy. The recording of this hearing will be found on the CD of the March 21, 2016 public hearing proceedings.**

**Modified Variance—To allow an additional 194.48 square feet of attached signage along the front elevation:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a modified variance from Chapter 8.3.3, Table 8.3.2 of the Land Development Code to allow an additional 194.48 sq. ft. of attached signage along the front façade (existing 480.41 SF or a total of 674.89 SF of signage); and

**WHEREAS**, the Board finds that the requested modified variance will not adversely affect the public health, safety or welfare because the signs will be approximately 460 feet from Bashford Manor Lane; and because the proposal will help the public navigate through the large parking lot; and

**WHEREAS**, the Board finds that the modified variance will not alter the essential character of the general vicinity because the attached signs are typical for this form district and type of uses in the area; and

**WHEREAS**, the Board finds that the modified variance will not cause a hazard or nuisance to the public as the building is located approximately 460 feet from the edge of pavement along Bashford Manor Lane and the new signs allow for better branding and will make it easier for the public to navigate through the large parking lot; and

**WHEREAS**, the Board finds that the modified variance will not allow an unreasonable circumvention of the zoning regulations because the signs are better identifying the departments within the Walmart store, as well as their location; and

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**WHEREAS**, the Board finds that the modified variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as Walmart is a large store that is subject to the general branding of the larger corporation; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since Walmart would not be able to fit into the national branding of the chain store;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the modified variance to allow 674.89 square feet of attached signage

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

**NO: No one.**

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

**ABSTAINING: No one.**

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**PUBLIC HEARING:**

**CASE NO. 16VARIANCE1009**

Request: Variance from the Land Development Code to allow a proposed one story garage to exceed the maximum front yard setback; and sidewalk waivers.

Project Name: 3718 Bardstown Road

Location: 3718 Bardstown Road

Owner: Tom Drexler

Applicant: Dan Grimm – Architect

Representative: Dan Grimm – Architect

Jurisdiction: Louisville Metro

Council District: 10 – Pat Mulvihill

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 proposing to construct a 5,580 sq. ft. one story garage; and is requesting approval of two sidewalk waivers which should be constructed along Bardstown Road. He said a capital project to construct sidewalks in this area has been funded.



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

Dan Grimm, Architect, 8401 Shelbyville Road, Ste. 216, Louisville, KY 40222.

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

Dan Grimm, the applicant's architect, said his client wants the garage to load trucks. He said there is no sidewalk along the west side because there are no homes. He said the size of the building triggered the requirement to install sidewalks.

Mr. Allen pointed out to the Board where the partial sidewalk should be placed.

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

No one.

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

No one.

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

No one.

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

No one.

**Deliberation:**

The Board decided that since the state will be funding the sidewalks in this area, that it wasn't necessary for the applicant to do this.

**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 March 21, 2016 public hearing proceedings.**

**Variance—To allow a proposed garage to encroach into the front yard setback:**

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

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**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a variance from Section 5.2.4.3.a of the Land Development Code to allow a proposed garage to be 193 feet from the front property line (requirement 15 feet; or a variance of 178 feet); and

**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare since the proposed one story garage will be located behind a metal security fence to the rear of the public parking area; and because the proposed garage will not be accessible to the public or from the public parking lot; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity since the area consists of other commercial businesses, including offices, services, and retail with setbacks greater than currently allowed by the regulation; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public since the setback allows for the proposed garage to be located behind a security fence and is not accessible from the public parking area; and because the proposed garage is north of the principal structure which house the office and warehouse space for the plumbing company; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations since the proposed garage has not been constructed and is a permitted use within the C-2 zoning provided "all operations are confined within a building" (LDC, Section 2.4.4); and

**WHEREAS**, the Board finds that the variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the business has the front northern portion of the parcel dedicated as a public parking area and the setback allows for the support of business operations relative to the main office/warehouse; and

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**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 since the movement of the proposed garage would result in the loss of public parking or would require the redesign of the public parking area; and

**WHEREAS**, the Board finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the applicant has not attempted to construct the proposed garage without permission from the Board of Zoning Adjustment;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow a proposed garage to be 193 feet from the front property line.

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

**NO: No one.**

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

**ABSTAINING: No one.**

**Waivers—To not provide sidewalks along 3718 Bardstown Road street frontage; and to not provide a clearly defined safe pedestrian access from the public right-of-way through the off-street parking area to the non-residential building entrance:**

After the public hearing in open business session, on a motion by Member Fishman, seconded by Member Howard, 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 waiver from Section 5.8.1.B of the Land Development Code to not provide a sidewalk along the frontage of 3718 Bardstown Road; and a waiver from Section 5.9.2.A.b.i of the Land Development Code to not provide a clearly defined safe pedestrian access from the adjacent public right-of-way through the off-street parking area to non-residential building entrance; and

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**WHEREAS**, the Board finds that the proposed waivers will not adversely affect adjacent property owners since sidewalks along the western portion of Bardstown Road currently do not exist from Hikes Lane to Buechel Bypass/Bardstown Road intersection; and because the Buechel Streetscape Phase II Project's sidewalks will encompass the area in the front of the applicant's property; and

**WHEREAS**, the Board finds that Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new development 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; therefore, the proposed waivers will not violate guidelines of Cornerstone 2020 since a partial sidewalk is proposed along the western side of Bardstown Road that is proportional to the proposed one story garage that would cover approximately 160 feet from the northern property boundary to the south at the vehicular entrance of the plumbing business; and because the Buechel Streetscape Phase II Project's sidewalks will encompass the area in the front of the applicant's property; and

**WHEREAS**, the Board finds that the extent of the waivers of the regulation is the minimum necessary to afford relief to the applicant since a partial sidewalk is proposed along Bardstown Road that is proportional to the addition; and because the Buechel Streetscape Phase II Project will be constructing sidewalks encompassing the area in front of the applicant's property; 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 as a result of constructing a one story garage with a footprint of 5,580 sq. ft. which requires sidewalks to be constructed along the Bardstown Road frontage; and because the Buechel Streetscape Phase II Project will be constructing sidewalks that will encompass the area in the front of the applicant's property;

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**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waivers to not provide sidewalks along 3718 Bardstown Road street frontage; and to not provide a clearly defined pedestrian access from the public right-of-way through the off-street parking area to the non-residential building entrance.

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

**NO: No one.**

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

**ABSTAINING: No one.**

**Waiver—To not provide sidewalks along 3718 Bardstown Road rear portion of the lot facing Buechel Bypass:**

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 presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a waiver from Section 5.8.1.B of the Land Development Code to not provide sidewalks along 3718 Bardstown Road rear portion of the lot facing the Buechel Bypass; and

**WHEREAS**, the Board finds that the requested waiver will not adversely affect adjacent property owners since there are no other existing or proposed sidewalks in the area from the intersection of Hikes Lane and Buechel Bypass on the northern end until the closest intersection on the southern end at Buechel Bank Road and the Buechel Bypass; and

**WHEREAS**, the Board finds that Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to 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

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with sidewalks along the streets of all developments where appropriate; however, the Buechel Bypass has no sidewalks on either side from Hikes Lane, on the northern end until Buechel Bank Road on the southern side, as the next closest intersection with the Buechel Bypass; and

**WHEREAS**, the Board finds that the extent of the regulation is the minimum necessary to afford relief to the applicant since the Buechel Bypass has no existing sidewalks; 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 since the Buechel Bypass is a state road and no other adjoining properties to date have been required nor provided sidewalks along Buechel Bypass;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waiver to not provide sidewalks along 3718 Bardstown Road rear portion of the lot facing Buechel Bypass.

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

**NO: No one.**

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

**ABSTAINING: No one.**

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**CASE NO. 16VARIANCE1002 & 16DEVPLAN1009**

Request: Variance from the Land Development Code to allow a proposed structure to exceed the maximum setback, waivers and a Category 2B Review.

Project Name: 3701 7th Street Road

Location: 3701 7th Street Road

Owner: White Castle Management Company

Applicant: Glen Davidson – White Castle Management Company

Representative: Ashley Bartley

Jurisdiction: Louisville Metro

Council District: 3 – Mary C. Woolridge

Case Manager: Ross Allen, Planner II

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

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at the Planning and Design Services offices located at 444 S. 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 proposing to demolish and rebuilt a 2,800 SF White Castle restaurant. He said the requests meet the standard of review.

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

Ashley Bartley, Qk4, 1046 E. Chestnut Street, Louisville, KY 40204

Craig Idler, White Castle Management Company, 555 West Goodale Street,  
Columbus, OH 43215.

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

Ashley Bartley, the applicant's representative, said they are shifting the building closer to Manslick Road, providing connections and adding more green space at the corner. Ms. Bartley explained the need for the waivers for maneuverability etc.

Craig Idler, the owner, said the current building is 30 years old; and that they will be rebuilding with stone and brick.

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

No one.

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

No one.

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

No one.

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

No one.

**Deliberation:**

Board of Zoning Adjustment deliberation.

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the March 21, 2016 public hearing proceedings.**



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**Variance—To allow a proposed building to encroach into the front yard setback along Manslick Road:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a variance from the Land Development Code, Table 5.2.2 to allow a proposed building to be 56 feet from the front property line along Manslick Road (requirement, 25 feet; or a variance of 31 feet); and

**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare since the front setback allows for parking spaces; a 20 foot drive aisle width and 10 ft. wide drive-thru; and because the sidewalk along Manslick Road leads to the corner where potential customers may use the walkway to access the restaurant; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity because the building already existed prior to this request with a setback greater than required by the zoning regulations for the form district; and because the setbacks along Manslick Road vary substantially as you move south from the corner of 7<sup>th</sup> Street Road on the western side; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public since the variation in setbacks along Manslick Road, and the public can access the site via sidewalks that are found on the northern side of the property along 7<sup>th</sup> Street; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations since the property is zoned C-1 in a Traditional Neighborhood Form District prior to the proposed rebuild; and

**WHEREAS**, the Board finds that the variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone

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since setbacks along the western side of Manslick Road, south of the proposed site which vary greatly from the minimum and maximum setbacks asked of the owner; and because both properties to the south have front yard setbacks of roughly 45 feet; 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 since the proposed rebuild would be similar in character and closer in placement to Manslick Road than the existing structure; and

**WHEREAS**, the Board finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the applicant nor owner have begun construction of the proposed White Castle restaurant;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow the proposed building to be 56 feet from the front property line along Manslick Road.

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

**NO: No one.**

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

**ABSTAINING: No one.**

**Waiver #1—To allow a proposed building entrance to not face the primary street:**

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; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a waiver to allow a proposed building to not face the primary street; and

**WHEREAS**, the Board finds that the requested waiver will not adversely affect adjacent property owners since the adjacent property to the west is zoned M-2

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(Industrial) which is a higher intensity use; and because properties to the north are zoned EZ-1 (Enterprise Zone), which is also a higher intensity use; and properties to the east and south are zoned C-2 (Commercial) which is the same as the subject property; and

**WHEREAS**, the Board finds that the waiver will not violate the guidelines of Cornerstone 2020 concerning the building entrance not facing the primary street the development is serving; 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 building has one entrance that is facing 7<sup>th</sup> Street Road and two other entrances which face the rear yard where the greatest amount of parking for the business is located; and

**WHEREAS**, the Board finds that the applicant has incorporated other design measures that exceed the minimums of the district since they are closing one ingress/egress along 7<sup>th</sup> Street Road and placing a sidewalk from the public right-of-way to the entrance; and because the proposed site would also provide access to the corner of 7<sup>th</sup> Street Road and Manslick Road;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waiver to allow a proposed building entrance to not face the primary street.

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

**NO: No one.**

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

**ABSTAINING: No one.**

**Waiver #2—To allow parking in the front of the building:**

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; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a

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waiver from the Land Development Code, Section 5.5.1.3.A, to allow parking in front of the building; and

**WHEREAS**, the Board finds that the requested waiver will not adversely affect adjacent property owners since 7 parking spaces are located along the front portion of the property along Manslick Road and directly abut the public right-of-way sidewalk; and because no properties (Manslick Road) parking, 7 spaces, are located on the Manslick Road (front yard) and directly abut the public right-of-way; and

**WHEREAS**, the Board finds that the waiver will not violate specific guidelines of Cornerstone 2020 because the applicant has applied for this waiver prior to construction; 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 parking is at the maximum allowed for the site based upon the building footprint square footage; and because the area of impervious surface is being reduced by 1,654 square feet; 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 since the drive-thru requires vehicular flow directly adjacent to the building along Manslick Road; and because the location of the parking on the east side along Manslick Road provides additional parking off of the drive aisle, otherwise, adequate customer parking could not be provided; and because the applicant has provided a three-foot masonry wall to buffer the parking lot along both Manslick Road and 7<sup>th</sup> Street Road; and

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waiver to allow parking in the front of the proposed building.

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

**NO: No one.**

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

**ABSTAINING: No one.**

**Waiver #3—To not provide vehicular and pedestrian connections between parking lots of abutting developments:**

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; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a variance from Section 5.5.1.A.3.d of the Land Development Code to not provide vehicular and pedestrian connections between parking lots of abutting developments; and

**WHEREAS**, the Board finds that the requested waiver will not adversely affect adjacent property owners since the only adjacent property owner is J & J Modal, Inc., who currently accesses their property from Manslick Road; and

**WHEREAS**, the Board finds that the waiver will violate specific guidelines of Cornerstone 2020, however, adjacent properties have higher intensity uses with semi-trucks, so it would make connectivity/accessibility busier and possibly dangerous; 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 both adjacent properties to the south and west are privately owned and used for higher intensity M-2 uses; and

**WHEREAS**, the Board finds that the strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land since the traffic flow pattern of White Castle would be prohibitive to use by the adjacent property owners especially when considering it is a higher intensity use and semi-trucks would have no need to use White Castle as an access to their site or vice versa; and

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**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waiver to not provide vehicular and pedestrian connections between parking lots of abutting developments.

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

**NO: No one.**

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

**ABSTAINING: No one.**

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**ADJOURNMENT**

**The meeting adjourned at 12:40 p.m.**

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**Chair**

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**Secretary**