

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

June 20, 2016

A meeting of the Louisville Metro Board of Zoning Adjustment was held on June 20, 2016 at 8:30 a.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Mike Allendorf, Chair
Betty Jarboe, Vice Chair
Rosalind Fishman, Secretary
Lester Turner
Paul Bergmann
Lula Howard

Members Absent:

Dean Tharp

Staff Members Present:

Emily Liu, Planning Director
Brian Davis, Planning & Design Manager
Steve Hendrix, Planning & Design Supervisor
Ross Allen, Planner I
Jon Crumbie, Planning & Design Coordinator
John Carroll, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

**BOARD OF ZONING ADJUSTMENT MINUTES
June 20, 2016**

APPROVAL OF MINUTES

June 6, 2016 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:02:06 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 June 6, 2016.

The vote was as follows:

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

Absent: Member Tharp

BOARD OF ZONING ADJUSTMENT MINUTES
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BUSINESS SESSION

CASE NUMBER 16CUP1018

Request:	Modified Conditional Use Permit to allow a 7,000 square feet building expansion for additional operating rooms and additional parking spaces in an OR-3 zoning district
Project Name:	Norton Women's and Kosair Children's Hospital
Location:	4001 Dutchmans Lane
Owner:	Faulkner Hinton Suburban I & III, LLC
Applicant:	Norton Healthcare Inc.
Representative:	Ann Richard
Jurisdiction:	St. Matthews
Council District:	26 – Brent Ackerson
Case Manager:	Jon E. Crumbie, Planning and Design Coordinator

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

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

Agency Testimony:

00:02:58 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition to the request:

No one spoke.

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CASE NUMBER 16CUP1018

00:04:49 On a motion by Vice Chair Jarboe, seconded by Member Bergmann, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the applicable policies of the Comprehensive Plan, and

WHEREAS, the Board further finds that the subject site is located in an area that has a number of medical office/hospital uses. This proposal will be compatible with these uses with respect to intensity, traffic, noise, drainage, lighting and appearance, and

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

WHEREAS, the Board further finds that There are two requirements for hospitals and item B. will be met. Item A. does not apply because no sign is being requested;

4.2.29 Hospitals, Clinics, and Other Medical Facilities, Facilities requiring a Certificate of Need issued by the Commonwealth of Kentucky, including hospitals, clinics, and other medical facilities, may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements:

A. Signs - One freestanding sign, not to exceed 80 square feet in area or 10 feet in height, may be placed at each of the major entrances, except in districts where signs are allowed. Attached signs may be located at any height. The Board shall determine the size of all attached signs.

B. All buildings and structures shall be at least 30 feet from any property line; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1018, does hereby **APPROVE** the Modified Conditional Use Permit to allow the expansion and additional parking spaces, based upon the presentation by staff, the staff report and site plan.

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CASE NUMBER 16CUP1018

The vote was as follows:

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

Absent: Member Tharp

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BUSINESS SESSION

CASE NUMBER 16MOD1002

Request:	Modified Conditional Use Permit to allow revisions to the Conditions of Approval, #3 & #4
Project Name:	Oaklawn Senior Living
Location:	100 Shelby Station Drive
Owner:	Oaklawn Development Properties, LLC
Applicant:	Oaklawn Development Properties, LLC
Representative:	William Bardenwerper
Jurisdiction:	Louisville Metro
Council District:	20 – Stuart Benson
Case Manager:	Steve Hendrix, Planning and Design Supervisor

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

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

Agency Testimony:

00:06:20 Steve Hendrix presented the case and responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition to the request:

No one spoke.

00:08:05 On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

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CASE NUMBER 16MOD1002

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal meets all applicable policies of the Comprehensive Plan, and

WHEREAS, the Board further finds that the proposal is compatible with surrounding land uses and will be adjacent to and existing nursing home. The proposal will be compatible with the general character of the area with respect to scale, drainage, lighting, and appearance, and

WHEREAS, the Board further finds that the proposal has been reviewed by Public Works and MSD and both have approved the plan, and

WHEREAS, the Board further finds that there are 3 items in the listed requirements for a nursing home. Item A. and B. have been met and item C. is subject to the Board;

Nursing Homes and Home for the Infirm or Aged

Nursing Homes and Homes for the Infirm or Aged may be permitted in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. All buildings shall be located at least 30 feet from any property line.
- B. One sign, not to exceed 60 square feet and six feet in height, may be placed at each of the major entrances, except in districts where larger signs are allowed.
- C. The Board of Zoning Adjustment added **NO** restrictions to mitigate nuisances or adverse effects; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16MOD1002, does hereby **APPROVE** the Modified Conditional Use Permit to allow revisions to the Conditions of Approval #3 and #4, based on the Standard of Review and Staff Analysis for Conditional Use Permits, and **SUBJECT** to the following Conditions of Approval:

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CASE NUMBER 16MOD1002

Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be “exercised” as described in KRS 100.237 within two years of the Board’s vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a nursing home without further review and approval by the Board.
- ~~3. There will be a maximum number of 30 employees on site during any shift.~~
- ~~4. There shall be a maximum number of 78 residents on site at any given time.~~
3. There will be a maximum number of 30 employees on site during any shift and a maximum number of 78 dwellings units, or any combination thereof such that the total number of parking spaces required by the Land Development Code, taking into consideration all applicable parking credits, is satisfied. Any revisions to the requirements of this condition of approval shall be submitted to the Planning Commission Director for review and determination.

The vote was as follows:

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

Absent: Member Tharp

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BUSINESS SESSION

CASE NUMBER 16VARIANCE1032

Request:	Variance from LDC section 5.4.2.C.3.a for a garage to encroach into the 5' foot minimum setback from the rear property line.
Project Name:	3614 Glencreek Lane
Location:	3614 Glencreek Lane
Owner:	Joseph Neagli
Applicant:	Joseph Neagli
Representative:	Joseph Neagli
Jurisdiction:	Louisville Metro
Council District:	26– Brent T. Akerson
Case Manager:	Ross Allen, Planner I

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

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

Agency Testimony:

00:10:10 Ross Allen presented the case and responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition to the request:

No one spoke.

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CASE NUMBER 16VARIANCE1032

00:11:25 On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the proposed garage would be approximately 14' feet from the side yard of the northern neighbors fence, approximately 110' feet from the rear neighbors parking lot (Hike's Point Christian Church), and poses no issues other issues for the adjacent parcels on the south or east, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since many homes in the general vicinity have attached garages, detached garages, car ports, and/or no garage, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the garage as situated at the rear of the property has distances of approximately 14' feet from the northern properties fence and approximately 110' feet from the Hikes Point Christian Church parking lot, to the west of the proposed garage, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the proposed garage is situated on the applicants parcel to the rear and has approximate distances of 14' feet from the northern properties fence and approximately 110' feet from the western property's (Hike's Point Christian Church) parking lot, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone since homes in the general vicinity have detached garages, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since the applicant is requesting the variance to comply with applicable Land development codes and would like additional storage space and space for vehicles, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the applicant has taken no action to construct the proposed garage; now, therefore be it

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CASE NUMBER 16VARIANCE1032

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1032, does hereby **APPROVE** the Variance from the Land Development Code Section 5.4.2.C.3.a to allow a proposed garage to encroach into the 5' required rear yard setback (**Requirement 5', Request 3.50', Variance 1.5'**), based on the Standard of Review and Analysis in the staff report and the site plan.

The vote was as follows:

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

Absent: Member Tharp

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PUBLIC HEARING

CASE NUMBER 15CUP1009

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

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

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

Agency Testimony:

00:13:14 Jon Crumbie stated the case has been withdrawn, but the applicant is here to provide a statement (see staff report and recording for detailed presentation).

The following spoke on behalf of the applicant:

Eddie Crutcher, 11615 Tazwell Drive, Louisville, KY 40245

Summary of testimony on behalf of the applicant:

00:13:47 Eddie Crutcher stated they want to put the project on hold. Mr. Crutcher stated they are still in the process; they are just looking for another location. Mr. Crutcher responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 15CUP1009

The following spoke in opposition to the request:

No one spoke.

NOTE: This case was WITHDRAWN, therefore, no vote or action was taken on this case.

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PUBLIC HEARING

CASE NUMBER 16VARIANCE1031

Request:	Variance from the Land Development Code section 5.3.1 Table 5.3.1 to allow a roofed outdoor living area to encroach into the 5' foot minimum side yard setback.
Project Name:	2801 Circlewood Court
Location:	2801 Circlewood Court
Owner:	Laura Purnell
Applicant:	David Dornick – Aesthetics Inc.
Representative:	David Dornick – Aesthetics Inc
Jurisdiction:	Louisville Metro
Council District:	9– Bill Hollander
Case Manager:	Ross Allen, Planner I

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

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

Agency Testimony:

00:15:37 Ross Allen presented the case and showed a Powerpoint presentation. Mr. Allen responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Rob Purnell, 2801 Circlewood Court, Louisville, KY 40206

Summary of testimony of those in favor:

00:22:09 Rob Purnell spoke in favor of the request. Mr. Purnell explained the proposed drainage for this structure and answered questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition to the request:

No one spoke.

00:26:35 Board Members' deliberation

00:28:09 Public Hearing reopened to hear further testimony from the applicant.

00:28:20 Mr. Purnell stated there will be no issues maintaining the structure. Mr. Purnell explained how the structure will be constructed and maintained. Mr. Purnell responded to questions from the Board Members (see recording for detailed presentation).

00:32:05 Board Members' deliberation

00:32:27 On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the proposed covered patio will be adjacent to the rear of the adjacent property located at 515 Altagate Road which has no structures within a distance of approximately 60' feet. The applicant has the signatures of the adjacent property owners that would be impacted but such an addition, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the existing wall and covered patio area will match with existing materials (also matching the residence). The proposed construction will be located on the side and rear of the property and minimal view from the cul-de-sac, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the construction is located along the side and rear of the property having no public access and minimal exposure to view from the street, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since encroachment into

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the minimum side yard setback will not impact adjacent property owner at 515 Altagate Road. The proposed covered patio area abuts an empty unimproved portion of the neighbor's lot with no other structures within approximately 60' ft. The proposed roof will not extend above existing residence's roofline or obstruct views of adjacent neighbor's, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone since the proposed covered patio is unique to the vicinity as many homes in the area have decks and pools but none have attached unfinished living space as the applicant is proposing, and

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

RESOLVED, that the Louisville Metro Board of Zoning Adjustment in Case Number 16VARIANCE1031 does hereby **APPROVE** the Variance from the Land Development Code Section 5.3.1 table 5.3.1 to allow a proposed outdoor living area (roofed) to encroach into the minimum side yard setback (**Requirement 5'**, **Request 1'**, **Variance 4'**), based upon the staff report including the applicant's justification for Item 2 on page 2 under Standard of Review and Staff Analysis for Variances and the applicant's explanation and illustration.

The vote was as follows:

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

Absent: Member Tharp

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PUBLIC HEARING

CASE NUMBER 16DEVPLAN1079

Request:	Landscape waiver from section 10.2.10 and two variances from LDC section 5.3.3.C.2.b
Project Name:	7410 South Park Place
Location:	7410 South Park Place
Owner:	Karim Momeni
Applicant:	Karim Momeni
Representative:	Matt Wolff – Sabak, Wilson, and Lingo Inc.
Jurisdiction:	Norwood
Council District:	7 – Angela Leet
Case Manager:	Ross Allen, Planner I

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

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

Agency Testimony:

00:35:05 Ross Allen presented the case and showed a Powerpoint presentation. Mr. Allen responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Matt Wolff, Sabak, Wilson and Lingo, Inc., 608 S. Third St., Louisville, KY 40202
Karim Momeni, Louisville, KY

Summary of testimony of those in favor:

00:40:53 Matt Wolff spoke on behalf of the applicant in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 16DEVPLAN1079

00:45:15 Karim Momeni spoke in favor of the request. Mr. Momeni presented pictures from his phone to the Board Members (see recording for detailed presentation).

00:47:53 Mr. Wolff and Mr. Momeni spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

Jessica Fields, 119 Norwood Drive, Louisville, KY 40222

Simon Fields, 119 Norwood Drive, Louisville, KY 40222

Clinton Gray, 201 Whippoorwill Drive, Louisville, KY 40222

Summary of testimony of those in opposition:

00:50:30 Jessica Fields spoke in opposition to the request (see recording for detailed presentation).

00:53:04 Simon Fields spoke in opposition to the request (see recording for detailed presentation).

00:56:28 Jessica and Simon Fields continued to speak in opposition to the request. Jessica Fields presented pictures from her phone to the Board Members. Mr. and Mrs. Fields responded to questions from the Board Members (see recording for detailed presentation).

01:04:13 Clinton Gray spoke in opposition to the request and responded to questions from the Board Members (see recording for detailed presentation).

01:11:36 Mr. and Mrs. Fields responded to further questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

01:17:00 Mr. Wolff and Mr. Momeni spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

01:29:20 **Board Members' deliberation**

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CASE NUMBER 16DEVPLAN1079

01:39:50 Public Hearing was reopened to allow testimony from the applicant's representative in regard to a date for continuation.

01:40:33 Board Members' deliberation

01:41:07 On a motion by Member Bergmann, seconded by Member Fishman, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16DEVPLAN1079, does hereby **CONTINUE** the case to the August 1, 2016 Board of Zoning Adjustment meeting to allow the applicant to submit a **REVISED** Site Plan which will address traffic issues, parking, and access and egress to various roads, and also to bring architectural drawings that can be reviewed, all of which may or may not modify the current list of Variances and Waivers.

The vote was as follows:

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

No: Member Howard

Absent: Member Tharp

01:43:10 Meeting was recessed

01:43:16 Meeting was reconvened

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PUBLIC HEARING

CASE NUMBER 16CUP1013

Request: Conditional Use Permit to allow a rehabilitation home in an R-5 zoning district
Project Name: The Order of Promise, LLC
Location: 3502 Garland Avenue
Owner: Property Management of Louisville
Applicant: Aaron Hallstrom
Representative: Aaron Hallstrom, Shannon Hallstrom
Jurisdiction: Louisville Metro
Council District: 1 – Jessica Green
Case Manager: Jon E. Crumbie, Planning and Design Coordinator

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

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

Agency Testimony:

01:44:48 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Aaron Hallstrom, 3502 Garland Avenue, Louisville, KY 40211

Summary of testimony of those in favor:

01:51:49 Dr. Aaron Hallstrom spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

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Amira Grainger, 918 S. 36th Street, Louisville, KY

Summary of testimony of those in opposition:

01:58:57 Amira Grainger spoke in opposition to the request and responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

02:09:09 Aaron Hallstrom spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

02:29:55 Board Members' deliberation

02:40:42 On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal preserves and renovates an existing structure and will incorporate building design that is consistent with the predominate neighborhood. All lighting will be code compliant. The applicant will be asking to not add landscaping and buffer, and

WHEREAS, the Board further finds that the proposal is compatible with the general character of the surrounding neighborhoods in terms of height, scale, intensity, lighting, and appearance, and

WHEREAS, the Board further finds that the proposal has been reviewed by Public Works and MSD and both have approved the plan. The Louisville Fire District #1 did not comment on the proposal, and

WHEREAS, the Board further finds that there are 5 items in the listed requirements for rehabilitation homes. Items A, C, and D. will be met. Item B. does not apply.

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A. If using an existing residential building constructed contemporaneously with the surrounding neighborhood, its exterior appearance shall not be substantially altered.

B. New construction within an area having an established front building setback shall be constructed at the average setback line or the minimum front yard of the form district, whichever is less. Structures adjacent to residential uses or zoning districts shall increase side yards by 10 feet for each story over two.

C. One parking space on site shall be provided for each staff person, plus two spaces for each five residents, or five clients served by the rehabilitation home. Parking shall be reduced to one space per five residents/clients if the rehabilitation home serves persons with disabilities that preclude operation of an automobile.

D. One freestanding sign not to exceed 10 square feet and 4 feet in height shall be allowed. **A sign is not proposed.**

E. The Board shall add any additional restrictions necessary to mitigate nuisances or adverse effects; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1013, does hereby **APPROVE** the Conditional Use Permit to allow a rehabilitation home in an R-5 zoning district, based on the applicant's stated use of the property and the staff report, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval

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

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3. The maximum number of residents on site shall be 9 including the overnight resident manager.
4. The Order of Promise will attempt to select a maximum of 3 (three) property owners in the general area to serve on the executive board.
5. A plan for shrubbery or landscaping to be added to the front of the house will be presented for approval to the Louisville Metro Planning and Design Services Landscape Architect.

The vote was as follows:

Yes: Members Bergmann, Howard, Vice Chair Jarboe and Chair Allendorf

No: Members Fishman and Turner

Absent: Member Tharp

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PUBLIC HEARING

CASE NUMBER 16CUP1008

Request:	Conditional Use Permit to allow an indoor recycling facility (tire shredding) in an EZ-1 zoning district
Project Name:	None
Location:	4122 Ralph Avenue
Owner:	Patricia Bryan Revocable Trust
Applicant:	Addelhafid Magouh
Representative:	Cliff Ashburner, Mark Madison
Jurisdiction:	Louisville Metro
Council District:	1 – Jessica Green
Case Manager:	Jon E. Crumbie, Planning and Design Coordinator

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

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

Agency Testimony:

02:47:30 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Cliff Ashburner, 101 S. 5th Street, Suite 2500, Louisville, KY 40207
Addelhafid Magouh, 11500 Falling Brook Drive, Louisville, KY 40249

Summary of testimony of those in favor:

02:54:12 Cliff Ashburner spoke on behalf of the applicant in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 16CUP1008

03:11:34 Addelhafid Magouh spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

03:13:42 Mr. Ashburner continued to speak in favor of the request and responded to further questions from the Board Members and Legal Counsel (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

03:25:45 Board Members' deliberation

03:28:40 On a motion by Member Fishman, seconded by Member Bergmann, the following resolution was adopted:

Conditional Use Permit to allow an indoor recycling center (tire shredding facility) in an EZ-1 zoning district:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal preserves and renovates an existing structure and will incorporate building design that is consistent with the surrounding industrial area. All lighting and landscaping will be code compliant, and

WHEREAS, the Board further finds that the proposal is compatible with the general character of the surrounding neighborhoods in terms of height, scale, intensity, lighting, noise and appearance, and

WHEREAS, the Board further finds that the proposal has been reviewed by Public Works and MSD and both have approved the plan. The Louisville Fire District #1 did not comment on the proposal, and

WHEREAS, the Board further finds that Solid Waste Management Facilities, including composting facilities, construction/demolition debris facilities, firewood production and sales, indoor recycling facilities, outdoor recycling facilities, and solid waste transfer stations may be permitted subject to the conditions and in the zoning districts listed in the following subsections. In addition, the following conditions apply to all of these types of facilities:

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A. All of the facilities referenced in this sub-section 4.2.46 are required to have a license to operate from the Jefferson County Waste Management District (SWR 20.0). **The site cannot be issued a license until all zoning issues have been resolved.**

B. A specific written or site plan for vehicle cleaning facilities to prevent the tracking of mud, dirt or other debris onto any public roadway shall be reviewed and approved by the Director of Works before public hearing.

C. A continuous fence a minimum of 6 feet high shall be placed along the boundaries of all work and storage areas and provided with gates of the same construction as the fence which shall remain locked at all times when active operations are not taking place and shall be properly maintained until all operations are completed.

D. When adjoining any residential zoning district, the facility may not be operated on Sunday or earlier than 7:00 a.m. or later than 6:00 p.m. on any other day.

E. In addition to these conditions, the following conditions apply to the respective category.

3. Indoor Recycling Facilities, if not in conflict with other laws or ordinances, may be located in the M-2, M-3 and EZ-1 Industrial Districts upon granting of a Conditional Use Permit after the location and nature of such use have been approved by the Board of Zoning Adjustment. The Board of Zoning Adjustment shall review the Comprehensive Plan, the plans and statements of the applicant and shall not permit such buildings, structures, or uses until it has been shown that the public health, safety, and general welfare will be properly protected, and that necessary safe guards will be provided for the protection of surrounding property and person. Recycling and/or storage of the following materials:

Glass and glass products

Paper and paper board and fiber Non-ferrous metals

Ferrous metals (limited to food and beverage containers)

Wallboard Plastic and **rubber products**, and Insulation; may be permitted when developed in compliance with the following conditions:

a. ~~The operation including loading and unloading operations is completely enclosed in building(s) approved for such purposes by all applicable fire protection authorities.~~ **The loading area will be outside the building facing Ralph Avenue.**

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b. The operation will not have or require any fire, smelting, fumes, chemicals or other toxic materials, hazardous waste or by-products, and the use and site shall conform to such other requirements and conditions as the Board in the exercise of sound discretion may require for the protection of surrounding property, persons, and neighborhoods values.

c. The building(s) shall be a minimum of 200 feet or a lesser distance if approved by the Board of Zoning Adjustment from any surrounding residential district(s). The Board may substitute additional screening requirements for a reduction of the 200-foot setback

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1008, does hereby **APPROVE** the Conditional Use Permit to allow an indoor recycling center (tire shredding facility) in a EZ-1 zoning district, based upon the presentation and the staff report and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for an indoor recycling center without further review and approval by the Board.
3. Item #12 regarding Private Access Easement shall be deleted from the site plan.
4. There will be no outdoor tire storage.

The vote was as follows:

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

Absent: Member Tharp

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03:31:20 On a motion by Member Fishman, seconded by Member Bergmann, the following resolution was adopted:

Waiver to reduce the required landscape buffer area along the roadway:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the landscape requirements will be met, and

WHEREAS, the Board further finds that Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. 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 further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the reduction will allow the drive aisle to be maximized for loading and truck maneuvering, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulations would deprive the applicant of the reasonable use of land because a portion of the drive aisle would have to be eliminated, and

WHEREAS, the Board further finds that the waiver will not adversely affect adjoining property owners. Currently, the site is not landscaped in any way. The applicant will provide plant material and a 5' Landscape Buffer area to screen maneuvering and parking areas within the site. The subject property is also in an industrial area with few properties that have been brought up to contemporary standards, and

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WHEREAS, the Board further finds that the waiver will not violate the Comprehensive Plan. The subject property will be used for indoor recycling, fostering sustainable business practices. The subject property will also be, at the conclusion of the redevelopment effort, more in keeping with Cornerstone 2020 and the Land Development Code than the existing condition, and

WHEREAS, the Board further finds that the extent of the waiver is the minimum necessary to afford relief to the applicant. The applicant is proposing to provide as much landscaping as possible along Ralph Avenue in light of the need to maneuver vehicles around the proposed building. The odd shape of the site also contributes to the lack of room for a larger buffer area, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land. The subject property is ideally located for the proposed use but the proposed use requires maneuvering area on the site that constricts the area available for buffers; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1008, does hereby **APPROVE** the Waiver to reduce the required landscape buffer area along the roadway (**Requirement 10', Request 5', Waiver 5'**), based on the Standard of Review and Staff Analysis for Waivers, the discussion, the presentation and the justification from the applicant.

The vote was as follows:

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

Absent: Member Tharp

03:32:35 Meeting was recessed

03:32:57 Meeting was reconvened

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CASE NUMBER 14CUP1003

Request:	Time Extensions concerning certain Conditions of Approval for the potentially hazardous or nuisance use (staging lot for trucks and trailers) Conditional Use Permit, approved on January 11, 2016.
Project Name:	Conditions of Approval
Location:	151 & 201 Cabel Street
Owner:	Swift Pork Company
Applicant:	JBS USA, LLC & Swift Pork Company
Representative:	Glenn Price
Jurisdiction:	Louisville Metro
Council District:	4 – David Tandy
Case Manager:	Steve Hendrix, Planning and Design Supervisor

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

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

Agency Testimony:

03:33:25 Steve Hendrix presented the case and showed a Powerpoint presentation. Mr. Hendrix responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Glenn Price, 400 West Market Street, Louisville, KY 40202

Summary of testimony of those in favor:

03:37:40 Glenn Price spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition to the request:

Jon Salomon, 3600 National City Tower, Louisville, KY

Summary of testimony of those in opposition:

03:50:57 Jon Salomon stated he has advised Mr. Price that they do not have any real disagreement about this. Mr. Salomon stated he doesn't think there is any formal action for the Board to take today, and suggested the case be continued until August.

03:52:38 Mr. Price agreed with a continuation until August.

03:55:47 Board Members' deliberation

03:55:53 On a motion by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment in Case Number 14CUP1003, does hereby **CONTINUE** the case to the August 15, 2016 Board of Zoning Adjustment meeting.

The vote was as follows:

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

Absent: Member Tharp

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ADJOURNMENT

The meeting adjourned at approximately 12:47 p.m.

Chair

Secretary