

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

March 4, 2019

A meeting of the Louisville Metro Board of Zoning Adjustment was held on March 4, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Dwight Young, Chair
Rosalind Fishman, Vice Chair
Kimberly Leanhart, Secretary
Richard Buttorff
Lester Turner, Jr.
Lula Howard
Lindsey Jagoe

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Reverman, Planning & Design Assistant Director
Joe Haberman, Planning & Design Manager
Jon Crumbie, Planning & Design Coordinator
Zach Schwager, Planner I
Dante St. Germain, Planner II
Beth Jones, Planner II
Paul Whitty, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

**FEBRUARY 18, 2019 BOARD OF ZONING ADJUSTMENT MEETING
MINUTES**

00:01:58 On a motion by Vice Chair Fishman, seconded by Member Turner, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on February 18, 2019.

The vote was as follows:

Yes: Members Turner, Leanhart, Vice Chair Fishman, and Chair Young
Abstain: Members Buttorff, Howard, and Jagoe

BOARD OF ZONING ADJUSTMENT MINUTES
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BUSINESS SESSION

CASE NUMBER 18CUP1186

Request: Modified Conditional Use Permit request to allow a
392 square foot security building
Project Name: Security Building Expansion
Location: 1200 Story Avenue
Owner: JBS Swift
Applicant: Glenn Price, Frost Brown Todd LLC
Jurisdiction: Louisville Metro
Council District: 4—Barbara Sexton Smith
Case Manager: Steve Hendrix, 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:

00:02:54 Joe Haberman presented the case on behalf of the Case Manager and responded to questions from the Board Members (see recording for detailed presentation).

00:05:24 On a motion by Vice Chair Fishman, seconded by Member Howard, 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, since the modification is minor and has received approval from the Butchertown Architectural Review Committee, and

WHEREAS, the Board further finds that the proposal is compatible with the surrounding land uses and the general character of the area, since the request is to replace an existing guard/security building, and

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BUSINESS SESSION

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WHEREAS, the Board further finds that Transportation Planning and MSD have given preliminary approval, and

WHEREAS, the Board further finds that:

The following uses (manufacture, processing, treatment, or storage unless otherwise specified), having accompanying hazards such as fire, explosion, noise, vibration, dust, or the emission of smoke, odor, or toxic gases may, if not in conflict with other laws or ordinances, be located in industrial zones as indicated below by Conditional Use Permit after the location and nature of such use shall have been approved by the Board of Zoning Adjustment. In reviewing an application for a CUP, the Board of Zoning Adjustment shall review the plan and statements of the applicant and the following:

- A. The Comprehensive Plan; Proposal meets applicable requirements.
- B. Environmental and health related concerns raised by the operation and the applicant's proposal to mitigate any adverse effects to the public's health, safety and general welfare; Not applicable to this proposal.
- C. The applicant's site design, buffering, and security measures and their adequacy to mitigate any adverse effects to the public's health, safety and general welfare; Proposal has been approved by Transportation.
- D. Any other evidence submitted by the applicant and any other party addressing the issues. Applicant stated that changes were a request by Homeland Security.

A Conditional Use Permit under this section shall be issued only if the evidence shows the applicant's operation and associated nuisances will be properly managed and the public's health, safety and general welfare will be protected. The Board of Zoning Adjustment may impose additional conditions to protect surrounding properties. All Conditional Use Permits under this section shall be issued subject to the applicant also receiving all necessary permits from local, state and federal regulatory agencies; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1186 does hereby **APPROVE** Modification of a Conditional Use Permit to allow a new 392 square foot guard and security structure adjacent to the primary entrance off Story Avenue, **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

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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 modified 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 modification is not so exercised, the request becomes void.

The vote was as follows:

Yes: Members Buttorff, Howard, Jagoe, Turner, Leanhart, Vice Chair Fishman, and Chair Young

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PUBLIC HEARING

CASE NUMBER 19VARIANCE1003

Request: Variance to allow a structure to exceed the maximum setback, variance to allow a dumpster enclosure to encroach into a rear setback, a waiver to allow parking in front of a structure in the Traditional Marketplace Corridor form district

Project Name: Goodfellas Pizza

Location: 1242, 1244, 1246, 1248, 1250 E Broadway and 708 Baxter Ave

Owner: Kennie and Patricia Combs

Applicant: Long Construction Co

Jurisdiction: Louisville Metro

Council District: 8 – Brandon Coan

Case Manager: Jay Lockett, AICP, 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:

00:06:53 Dante St. Germain presented the case on behalf of the Case Manager and showed a Powerpoint presentation. Ms. St. Germain responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Frank Culberson, 3104 Pinckard Pike, Versailles, KY 40383

Summary of testimony of those in favor:

00:13:13 Frank Culberson spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 19VARIANCE1003

The following spoke in opposition of the request:

Debra Richards-Harlan, 1734 Chichester Avenue, Louisville, KY 40205

Summary of testimony of those in opposition:

00:16:00 Debra Richards-Harlan spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

00:27:41 Frank Culberson spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

00:29:52 **Board Members' deliberation**

00:43:27 On a motion by Vice Chair Fishman, seconded by Member Leanhart, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 19VARIANCE1003 to the March 18, 2019 Board of Zoning Adjustment meeting.

The vote was as follows:

Yes: Members Buttorff, Howard, Jagoe, Turner, Leanhart, Vice Chair Fishman, and Chair Young

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PUBLIC HEARING

CASE NUMBER 19VARIANCE1008

Request: Variance to allow an accessory structure to encroach into the required rear yard setback
Project Name: Stowers Lane Variance
Location: 2221 Stowers Lane
Owner: F R Bennett
Applicant: Frank Russell Bennett
Jurisdiction: City of Shively
Council District: 3 – Keisha Dorsey
Case Manager: Zach Schwager, 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:

00:45:01 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Lorrie Bennett, 2167 Lowell Ave., Louisville, KY 40205

Summary of testimony of those in favor:

00:50:16 Lorrie Bennett spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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PUBLIC HEARING

CASE NUMBER 19VARIANCE1008

00:58:30 Board Members' deliberation

00:58:36 On a motion by Member Howard, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony heard today, and the applicant's justification, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the structure is constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as it is an existing structure and similar in design to other accessory structures in the area, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as it is an existing structure, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as it is an existing structure and slightly encroaches into the rear yard setback, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19VARIANCE1008 does hereby **APPROVE** Variance from City of Shively Development Code Section 5.4.2.D.3.a to allow an accessory structure to encroach into the required rear yard setback (**Requirement 5 ft., Request 4 ft., Variance 1 ft.**).

The vote was as follows:

Yes: Members Buttorff, Howard, Jagoe, Turner, Leanhart, Vice Chair Fishman, and Chair Young

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CASE NUMBER 19VARIANCE1008

00:59:47 Meeting was recessed.

01:00:17 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1102

Request: Variance to permit a structure to permit a residence to encroach on the required street side yard in a Neighborhood form district
Project Name: Street Side Yard Variance
Location: 712 Grant Avenue
Owner/Applicant: Andrew Ernsperger Jr. Inc.
Jurisdiction: Louisville Metro
Council District: 18 – Marilyn Parker
Case Manager: Beth Jones, AICP, Planner II

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:

01:00:39 Beth Jones presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition of the request:

No one spoke.

01:07:51 Board Members' deliberation

01:08:48 On a motion by Vice Chair Fishman, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the presentation, was adopted:

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CASE NUMBER 18VARIANCE1102

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the variance will only affect one additional property on Railroad Avenue, also owned by the applicant, and will maintain a 56 ft. setback from the edge of the pavement, and

WHEREAS, the Board further finds that the requested variance is in character with existing development on the site and in the vicinity, and

WHEREAS, the Board further finds that the variance will not cause a public hazard or nuisance through excessive noise, vibration, odor or light and will not adversely affect sight lines for motorists at the Railroad Avenue/Grant Avenue intersection, and

WHEREAS, the Board further finds that permitting the proposed variance is a reasonable circumvention of zoning regulations due to the large amount of right-of-way and the fact that Railroad Avenue is a dead-end street serving only two residences, and

WHEREAS, the Board further finds that The 50 ft. right-of-way is well in excess of the required side yard for similar uses. In addition, the parcel is narrower at the front than the rear, where a sufficient street side yard is achieved, and

WHEREAS, the Board further finds that the application of the regulation would create an unnecessary hardship in that it is not out of character for the site or the area. In addition, the area of the requested variance abuts a right-of-way that is significantly larger than requirements, and

WHEREAS, the Board further finds that the circumstances are not the result of actions taken by the applicant; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1102 does hereby **APPROVE** Variance to permit a residence to encroach on the required street side yard in a Neighborhood form district (LDC Table 5.3.1) (**Requirement 30 ft., Request 6 ft., Variance 24 ft.**).

The vote was as follows:

Yes: Members Buttorff, Howard, Jagoe, Turner, Leanhart, Vice Chair Fishman, and Chair Young

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1117

Request: Variance permit an accessory structure to encroach on the required private yard in a Traditional Neighborhood Form District
Project Name: Private Yard Variance
Location: 2027 Boulevard Napoleon
Owner: David Wilson
Applicant: Distinctive Design
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
Case Manager: Beth Jones, AICP, Planner II

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:

01:10:34 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Charles Penn, 1050 Enterprise Drive, Lexington, KY 40510

Summary of testimony of those in favor:

01:15:57 Charles Penn spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1117

01:18:49 Board Members' deliberation

01:18:54 On a motion by Member Turner, seconded by Member Howard, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony heard today, and the variance justification, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the variance will not interfere with public health, safety or welfare, and

WHEREAS, the Board further finds that the requested variance will result in site development common in the immediate vicinity, and

WHEREAS, the Board further finds that the variance will not cause a public hazard or nuisance through excessive noise, vibration, odor or light, and

WHEREAS, the Board further finds that permitting the proposed variance is a reasonable circumvention of zoning regulations since similar site development is common in the immediate vicinity, and

WHEREAS, the Board further finds that the site, as well as multiple parcels in the immediate vicinity, already have relatively small private yard areas, and

WHEREAS, the Board further finds that the application of the regulation would create an unnecessary hardship in that it is not out of character for the site or the area, and

WHEREAS, the Board further finds that the circumstances are not the result of actions taken by the applicant in that the private yard area currently existing does not meet requirements, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1117 does hereby **APPROVE** Variance to permit an accessory structure to encroach on the required private yard in a Traditional Neighborhood form district (LDC 5.4.1.D.2) (**Requirement 2,104 sq. ft., Request 690 sq. ft., Variance 1,413 sq. ft.**).

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CASE NUMBER 18VARIANCE1117

The vote was as follows:

**Yes: Members Howard, Jagoe, Turner, Leanhart, Vice Chair Fishman, and
Chair Young**

No: Member Buttorff

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PUBLIC HEARING

CASE NUMBER 19VARIANCE1006

Request: Variance to permit a fence to exceed the permitted height in a Traditional Neighborhood form district
Project Name: Fence Height Variance
Location: 4521 S. 1st Street
Owner/Applicant: Gladys Diaz Perez.
Jurisdiction: Louisville Metro
Council District: 21 – Nicole George
Case Manager: Beth Jones, AICP, Planner II

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:

01:20:27 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Rita Prada, 4715 Dover Rd., Louisville, KY 40216
Gladys Diaz-Perez, 4521 S. 1st Street, Louisville, KY 40214

Summary of testimony of those in favor:

01:25:54 Rita Prada and Gladys Diaz-Perez spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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PUBLIC HEARING

CASE NUMBER 19VARIANCE1006

01:28:32 Board Members' deliberation

01:35:14 On a motion by Member Turner, seconded by Member Howard, the following resolution, based upon the Standard of Review and Staff Analysis, and the presentation, and the variance justification, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the added fence height does not affect public health, safety or welfare. It offers additional security for the private yard area of the site, in which the applicant intends to build a swimming pool, and

WHEREAS, the Board further finds that the requested fence height is in character with existing development on the site and in the vicinity. The corner lot at the opposite end of the block has a similar fence which appears to be the same height, and

WHEREAS, the Board further finds that the fence height will not cause a public hazard or nuisance through excessive noise, vibration, odor or light. Its location does not interfere with sight lines for vehicles at the S. 1st Street/Ottawa Avenue intersection, and

WHEREAS, the Board further finds that permitting the proposed fencing is not an unreasonable circumvention of zoning regulations in that the requested fence height would be permitted along a side yard not fronting a street, and

WHEREAS, the Board further finds that the proposed fencing will provide privacy and security along a street side yard as found on other corner lots in the vicinity, and

WHEREAS, the Board further finds that the application of the regulation would create an unnecessary hardship in that it is not out of character for parcels of the same type in the vicinity and does not interfere with sight lines for vehicles at the S. 1st Street/Ottawa Avenue intersection, and

WHEREAS, the Board further finds that the circumstances are not the result of actions taken by the applicant, as a fence of the requested height would be permitted if it were not a corner lot. In addition, construction of a pool would require a higher fence for safety reasons, and

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CASE NUMBER 19VARIANCE1006

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19VARIANCE1006 does hereby **APPROVE** Variance to permit a fence to exceed the permitted height in a Traditional Neighborhood form district (LDC 4.4.3.A.1.a.i) (**Requirement 42 in., Request 72 in., Variance 30 in.**).

The vote was as follows:

Yes: Members Howard, Jagoe, Turner, Vice Chair Fishman, and Chair Young

No: Members Buttorff, and Leanhart

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PUBLIC HEARING

CASE NUMBER 19VARIANCE1007

Request: Variance to allow a proposed addition to encroach into the required side yard
Project Name: Nelson Addition
Location: 2912 Garfield Avenue
Owner/Applicant: Keith Nelson
Jurisdiction: Louisville Metro
Council District: 5 – Donna Purvis
Case Manager: Jon E. Crumbie, Planning & 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:

01:36:59 Jon Crumbie presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Keith Nelson, 4515 Pulaski Ct., Louisville, KY 40245

Summary of testimony of those in favor:

01:40:44 Keith Nelson spoke in favor of the request and responded to questions from the Board Members. Mr. Nelson provided his telephone to the Board Members for viewing photos of the interior of the property (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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PUBLIC HEARING

CASE NUMBER 19VARIANCE1007

01:46:17 Board Members' deliberation

01:46:36 On a motion by Vice Chair Fishman, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, the presentation, and the information given by the owner, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the addition will be constructed according to all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the encroachment is created by the location of the existing structure on site, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the encroaching portion of the structure will have to follow all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the encroachment occurs because the applicant proposes to keep the addition wall in line with the existing wall, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the original structure was built close to the west side property line, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by requiring the applicant to offset the wall and construct an addition which is not in line with the existing wall, 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 as the applicant is requesting the variance and has not begun construction; now, therefore be it

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PUBLIC HEARING

CASE NUMBER 19VARIANCE1007

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19VARIANCE1007 does hereby **APPROVE** Variance from Land Development Code Table 5.2.2 to allow a structure to encroach into the required side yard setback (**Requirement 3 ft., Request 0.39 ft. at its closest point, Variance 2.6a ft. at its closest point**).

The vote was as follows:

Yes: Members Buttorff, Howard, Jagoe, Turner, Leanhart, Vice Chair Fishman, and Chair Young

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PUBLIC HEARING

CASE NUMBER 18CUP1185

Request: Conditional Use Permit for a short term rental unit that is not the primary residence of the host
Project Name: Roosevelt Short Term Rental
Location: 4126 Roosevelt Avenue
Owner/Applicant/Host: DHI IV LLC
Jurisdiction: Louisville Metro
Council District: 10— Pat Mulvihill
Case Manager: Beth Jones, AICP, Planner II

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:

01:48:35 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones 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 of the request:

No one spoke.

01:51:39 Board Members' deliberation

01:55:15 On a motion by Vice Chair Fishman, seconded by Member Leanhart, the following resolution was adopted:

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CASE NUMBER 18CUP1185

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 18CUP1185 to the April 1, 2019 Board of Zoning Adjustment meeting.

The vote was as follows:

Yes: Members Buttorff, Howard, Jagoe, Turner, Leanhart, Vice Chair Fishman, and Chair Young

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PUBLIC HEARING

CASE NUMBER 18CUP1077

Request: Conditional Use Permit for an accessory apartment
Project Name: Jacobs Accessory Apartment
Location: 4221 Taylorsville Road
Owner/Applicant: Jack F. Jacobs
Jurisdiction: Louisville Metro
Council District: 18 – Marilyn Parker
Case Manager: Jon E. Crumbie, Planning & 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:

01:57:55 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:

Jack Jacobs, 4221 Taylorsville Road, Louisville, KY 40220

Summary of testimony of those in favor:

02:04:21 Jack Jacobs spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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CASE NUMBER 18CUP1077

02:14:01 Board Members' deliberation

02:14:16 On a motion by Member Leanhart, seconded by Vice Chair Fishman, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal does not conflict with Comprehensive Plan policies, and

WHEREAS, the Board further finds that the proposal is compatible with surrounding development, and

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. The proposal will not create substantial additional requirements for the site, and

WHEREAS, the Board further finds that:

4.2.3 Accessory Apartments Accessory Apartments may be allowed in the R-R, R-E, R-1, R-2, R-3, R- 4, R-5 and U-N districts upon the granting of a conditional use permit and compliance with the listed requirements.

- A. The principal and accessory dwellings shall be owned by the same person(s). Occupancy of the accessory unit shall occur only while the property owner(s) resides in the principal dwelling on the premises. **The owner will reside in the principal dwelling.**
- B. The accessory apartment shall be no greater than 650 square feet or 30% of the floor area of the principal residence, whichever is greater. **30% of the floor area of the principal residence is 760 square feet. The accessory apartment is approximately 1,500 square feet.**
- C. If the accessory apartment is located in a freestanding structure, it shall not exceed the height of the principal residence. In the TNFD, permissible height shall be as allowed by the form district regulation, unless the Board approves a differing height. In all other form districts, if the freestanding structure is located within 25 feet of a property line, the height of the structure shall not exceed the average height of accessory structures on abutting parcels or 15 feet, whichever is greater, unless the Board finds that a different height limit is

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CASE NUMBER 18CUP1077

appropriate. ***The owner states that the accessory apartment will not exceed the height of the principal residence.***

- D.** Sites having accessory apartments shall provide off-street parking for the principal and accessory apartment as follows: 1. Neighborhood Form District - at least three off-street spaces provided on the lot, no more than two spaces outdoors; ***one parking space will be provided in the garage and two spaces outdoors on the existing parking area;*** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1077 does hereby **APPROVE** Conditional Use Permit to allow an accessory apartment in an R-4 zoning district with **RELIEF** from Item B, **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 accessory apartment without further review and approval by the Board.

The vote was as follows:

Yes: Members Buttorff, Howard, Jagoe, Turner, Leanhart, Vice Chair Fishman, and Chair Young

02:16:12 Meeting was recessed.

02:16:32 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 18CUP1171

Request:	Conditional Use Permit for a short-term rental of dwelling units that are not the primary residence of the host
Project Name:	Gill Short Term Rental
Location:	2047 Sherwood Avenue
Owner/Applicant:	Rose Moon, LLC
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Jon E. Crumbie, Planning & 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:

02:16:46 Jon Crumbie presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the appeal:

Steve and Deborah Gill, 1905 Round Ridge Rd., Louisville, KY 40207

Summary of testimony of those in favor:

02:20:31 Steve and Deborah Gill spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the appeal:

No one spoke.

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02:27:42 Board Members' deliberation

02:28:06 On a motion by Member Turner, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal does not conflict with Comprehensive Plan policies, and

WHEREAS, the Board further finds that when appropriately managed, the proposed use is compatible with surrounding development and land uses, and

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. The proposal will not create substantial additional requirements for the site, and

WHEREAS, the Board further finds that:

Short Term Rental Term Rental of a dwelling unit that is not the primary residence of the host in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 or R-8A district and Short Term Rental of any dwelling unit in a TNZD district may be allowed upon the granting of a Conditional Use Permit. In addition to any conditions of approval, a short term rental and its host shall meet the following requirements:

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **The applicant states that the 1st floor dwelling unit has two bedrooms that will allow a maximum number of eight guests and the 2nd floor dwelling unit has two bedrooms that will allow a maximum number of eight guests.**

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- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted. **The structure on the site is a duplex.**
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **The applicant states that parking is located along the existing driveway. Also, the site has credit for one on-street parking space.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1171 does hereby **APPROVE** Conditional Use Permit to allow short term rental of dwelling units that are not the primary residences of the owner in an R-5A zoning district and Traditional Neighborhood form district, **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not registered with Develop Louisville and with the Revenue Commission within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.

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2. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.

The vote was as follows:

Yes: Members Buttorff, Howard, Jagoe, Turner, Leanhart, Vice Chair Fishman, and Chair Young

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PUBLIC HEARING

CASE NUMBER 18CUP1175

Request:	Conditional Use Permit for short term rental of a dwelling unit not the primary residence of the host
Project Name:	Gallavin Short Term Rental
Location:	1850 Sherwood Avenue
Owner:	Wayne Gallavin
Host:	James Wallace & Co.
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Jon E. Crumbie, Planning & Design Coordinator

NOTE: This case was heard out of order, after Item #13 on the agenda.

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:

02:45:50 Jon Crumbie presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

James Wallace, 775 Goullon Court, Louisville, KY 40204
Sutej Gill, 1905 Round Ridge Rd., Louisville, KY 40207
Wayne Gallavin, 1274 Everett Avenue, Louisville, KY 40204

Summary of testimony of those in favor:

02:50:05 James Wallace spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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02:58:02 Sutej Gill spoke in favor of the request (see recording for detailed presentation).

02:59:34 Wayne Gallavin spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke neither for nor against the request:

Councilman Brandon Coan, 601 W. Jefferson St., Louisville, KY 40202

Summary of testimony of those neither for nor against:

03:05:50 Councilman Brandon Coan spoke neither for nor against the request. Councilman Coan stated the reason he is here today is that the owner, Wayne Gallavin, is the subject of another case involving the revocation of a registration for a short term rental. Councilman Coan stated that appeal is pending, and he thinks it would be appropriate for this case to be continued until the applicant has been successful with appeal that absolves him from any guilt or wrong-doing. Councilman Coan stated he thinks it is very critical that we hold all these people to their word; not only are they sworn in here, but we depend on them in these cases. Councilman Coan stated he is here today as a neutral party, he would just reiterate his request that the Board continue this case until the appeal is completed. Councilman Coan responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

Dan Rose, 1842 Sherwood, Louisville, KY 40205

Beth Rose, 1842 Sherwood, Louisville, KY 40205

Summary of testimony of those in opposition:

03:11:05 Steve Porter spoke in opposition of the request. Mr. Porter stated he represents some neighbors along Sherwood. Mr. Porter stated this property has the potential to be an okay short term rental. However, this application has some problems. Mr. Porter read from the Airbnb listing for the property. Mr. Porter stated they are advertising for sixteen guests and six-plus bedrooms. Mr. Porter reviewed the additional Conditions of Approval that his clients are

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suggesting. Mr. Porter explained the reasons for the additional suggested conditions. Chair Young stated the Board cannot require the Louisville Metro Division of Fire to inspect the property, so as written items 5 and 6 on the proposed conditions, we could not make those because we are unable to enforce those. Mr. Porter stated he thinks the Board could require some inspection by somebody with qualifications in that field. Mr. Haberman stated Planning Staff and somebody from Construction Review could do an inspection to determine how many bedrooms there are, and how many can be used as bedrooms. Mr. Porter stated that would be acceptable. Mr. Porter responded to questions from the Board Members (see recording for detailed presentation).

03:25:17 Dan Rose spoke in opposition of the request. Mr. Rose stated the deck overlooks his back yard. Mr. Rose stated they are asking for a barrier, and that parking is also an issue. Mr. Rose responded to questions from the Board Members (see recording for detailed presentation).

03:29:44 Beth Rose spoke in opposition of the request (see recording for detailed presentation).

REBUTTAL:

03:31:58 Wayne Gallavin spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

03:45:05 Board Members' deliberation

04:04:36 On a motion by Member Howard, seconded by Member Turner, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 18CUP1175 to the March 18, 2019 Board of Zoning Adjustment meeting.

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The vote was as follows:

Yes: Members Buttorff, Howard, Jagoe, Turner, Leanhart, Vice Chair Fishman, and Chair Young

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PUBLIC HEARING

CASE NUMBER 18CUP1152

Request: Conditional Use Permit for a short term rental unit that is not the primary residence of the host
Project Name: Short Term Rental
Location: 918 Stone Street
Owner/Applicant: Josh Rothschild
Jurisdiction: Louisville Metro
Council District: 10— Pat Mulvihill
Case Manager: Steve Hendrix, Planning and Design Coordinator

NOTE: This case was heard out of order, prior to Item #12 on the agenda.

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:

02:30:59 Joe Haberman presented the case on behalf of the Case Manager and showed a Powerpoint presentation. Mr. Haberman responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Josh Rothschild, 3320 Allison Way, Louisville, KY 40220

Summary of testimony of those in favor:

02:34:29 Josh Rothschild 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 neither for nor against the request:

Lonnie Ball, 914 Stone Street, Louisville, KY 40217

Summary of testimony of those neither for nor against:

02:39:36 Lonnie Ball spoke neither for nor against the request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

REBUTTAL:

02:43:03 Mr. Rothschild declined rebuttal (see recording for detailed presentation).

02:43:10 Board Members' deliberation

02:43:37 On a motion by Member Leanhart, seconded by Vice Chair Fishman, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal does not conflict with Comprehensive Plan policies, and

WHEREAS, the Board further finds that when appropriately managed, the proposed use is compatible with surrounding development and land uses. No exterior construction or alterations to the building or the site will be required, and

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. The proposal will not create additional requirements for the site, and

WHEREAS, the Board further finds that:

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Short Term Rental Term Rental of a dwelling unit that is not the primary residence of the host in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 or R-8A district and Short Term Use Permit. In addition to any conditions of approval, a short term rental and its host shall meet the following requirements:

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **The submitted floor plan shows that the residence has three bedrooms, allowing a maximum number of ten guests.**
- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted.
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **Parking is provided on site and on the street. Approximately, 3 on site and 2 on the street.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

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RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1152 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in an R-5 zoning district and Neighborhood form district, **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not registered with Develop Louisville and with the Revenue Commission within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.
2. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.
3. The maximum number of guests permitted in the short term rental shall be the lesser of eight (8) or that permitted by the Louisville Metro Code of Ordinances.

The vote was as follows:

Yes: Members Buttorff, Howard, Jagoe, Turner, Leanhart, Vice Chair Fishman, and Chair Young

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The meeting adjourned at approximately 5:24 p.m.

Chair

Secretary