

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

DECEMBER 21, 2015

A meeting of the Louisville Metro Board of Zoning Adjustment was held at 8:30.A.M. on Monday, December 21, 2015, 514 West Liberty Street, Old Jail Building, Old Jail Court Room, Louisville, Kentucky.

Members present:

David Proffitt, Chairperson
Mike Allendorf, Vice Chairperson
Rosalind Fishman, Secretary
Betty Jarboe
Lester Turner

Members absent:

Member Bergmann
Member Tharp

Staff members present:

Emily Liu, Director, Planning & Design Services
Joe Reverman, Assistant Director
John Carroll, Legal Counsel
Steve Hendrix, Planning Supervisor
Jon Crumbie, Planning Coordinator
Laura Mattingly-Humphrey, Planner I
Joel Dock, Planner I
Ross Allen, Planner I
Beth Stevenson, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

1.) DECEMBER 7, 2015 AT 8:30 A.M. BOARD OF ZONING ADJUSTMENT MEETING MINUTES:

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

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on December 7, 2015 at 8:30 A.M.

YES: Members Allendorf, Fishman, Jarboe, Turner and Proffitt.

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Bergmann and Tharp.

ABSTAINING: No one.

2.) DECEMBER 7, 2015 AT 6:00 P.M. BOARD OF ZONING ADJUSTMENT MEETING MINUTES:

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

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting held on December 7, 2015 at 6:00 P.M.

YES: Members Allendorf, Fishman, Jarboe, Turner and Proffitt.

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Bergmann and Tharp.

ABSTAINING: No one.

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NEW BUSINESS

CASE NO. 15VARIANCE1083

Request: Variances from the Land Development Code to allow a proposed free-standing sign to exceed the maximum size and height.

Project Name: Melton's Food Mart Sign

Location: 9817 3rd Street Road

Owner: Melton Investments
Joe Melton
9817 Old Third Street Road
Louisville, KY 40272

Applicant: Smart LED Signs
Karla Hill
P.O. Box 3
Eastwood, KY 40018

Representative: Same as Applicant

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 25—David Yates
Staff Case Manager: Ross Allen, Planner I

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

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

Agency Testimony:

Staff Case Manager, Ross Allen discussed the case summary, standard of review and staff analysis from the staff report. He said the applicant is

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requesting two variances for the sign size and height. The commercial LED sign will change images along the bottom portion. Member Allendorf questioned the sign blocking the view of drivers. Mr. Allen said this issue has been resolved by Public Works, and said due the height of the pole sign will not block any lines of sight.

The following spoke in favor of this request:

Karla Hill.

Summary of testimony of those in favor:

Karla Hill, the applicant's representative, said the double sided sign will be internally lit on the static portion and that the bottom LED signage will change at the required rate (once every 20 seconds).

The following spoke neither for nor against the request:

No one.

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

No one.

The following spoke in opposition to this request:

No one.

Summary of testimony of those in opposition:

No one.

Deliberation:

The Board stated that the sign is too large, but were not opposed since it is elevated and won't block the sight triangle.

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the December 21, 2015 public hearing proceedings.

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CASE NO. 15VARIANCE1083

Variance #1—To allow a proposed free standing sign to exceed the maximum size:

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

WHEREAS, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a variance from Table 8.3.3 of the Land Development Code to allow a proposed free-standing sign to be 82.66 square feet; and

WHEREAS, the Board finds that the requested variance will not adversely affect the public health, safety or welfare since the sign size would not obstruct views for vehicular and/or pedestrian traffic; and

WHEREAS, the Board finds that the variance will not alter the essential character of the general vicinity since there are two existing signs along Stone Street Road in the area; and

WHEREAS, the Board finds that the variance will not cause a hazard or nuisance to the public since the sign size would not obstruct views of vehicular and/or pedestrian traffic; and

WHEREAS, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations since there are two existing signs along Stone Street Road; and

WHEREAS, the Board finds that variance arises from a special circumstance as a result of the parcel being on a corner lot with less than 90 degrees at the corner of Stone Street Road (Designated Parkway) and Third Street road; and

WHEREAS, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since the size and area for a designated parkway would not result in the obstruction of vehicular and pedestrian traffic; and

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WHEREAS, the Board finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought because the parcel is on a corner lot with less than 90 degrees at the corner of Stone Street Road, a designated parkway, and Third Street road; and

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow the proposed free standing sign to be 82.66 square feet.

YES: Members Allendorf, Fishman, Jarboe, Turner and Proffitt.

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Bergmann and Tharp.

ABSTAINING: No one.

Variance #2—To allow a proposed free-standing sign to exceed the maximum height:

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

WHEREAS, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a variance from Table 8.3.3 of the Land Development Code to allow a proposed free-standing sign to exceed the maximum height of 6 feet, to 14 feet 6 ½ inches or a variance of 8 feet 6 ½ inches; and

WHEREAS, the Board finds that the requested variance will not adversely affect the public health, safety or welfare since the sign height would not obstruct views for vehicular and/or pedestrian traffic; and

WHEREAS, the Board finds that the variance will not alter the essential character of the general vicinity since there are two existing signs along Stone Street Road; and

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WHEREAS, the Board finds that the variance will not cause a hazard or nuisance to the public since the sign would not obstruct views of vehicular and/or pedestrian traffic; and

WHEREAS, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations since two existing signs along Stone Street Road exceed the maximum 6 ft. height as defined by Table 8.3.3 of the Land Development Code;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow a proposed free-standing sign to be 14 feet 6 ½ inches in height.

YES: Members Allendorf, Fishman, Jarboe, Turner and Proffitt.

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Bergmann and Tharp.

ABSTAINING: No one.

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NEW BUSINESS

CASE NO. 15VARIANCE1084

Request: Variance from Article 10.1.A.2.a of the Development Code (April 2001) to allow a driveway to exceed the maximum width of 20 feet and be as much as 35 feet wide.

Project Name: Lutz Driveway

Location: 3724 Hanover Road

Owner: Tena D. Lutz
3724 Hanover Road
Louisville, KY 40207

Applicant: Pat Durham Building
Pat Durham
2114 Highland Springs Place
Louisville, KY 40245

Representative: Mindel, Scott & Associates, Inc.
Kathy Linares
5151 Jefferson Blvd.
Louisville, KY 40219

Jurisdiction: City of St. Matthews

COUNCIL DISTRICT 26—Brent Ackerson
Staff Case Manager: Joel Dock, Planner I

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

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

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Agency Testimony:

Staff Case Manager, Joel Dock discussed the case summary, standard of review and staff analysis from the staff report. He said the applicant is proposing a 22' X 14' garage addition onto the existing garage/principal structure. The variance to expand the width of the driveway is necessary for vehicular access into the garage. Mr. Dock said the proposal meets the standard of review.

The following spoke in favor of this request:

Kathy Linares.

Summary of testimony of those in favor:

Kathy Linares, the applicant's representative, presented a PowerPoint presentation to the Board. She said there are other similar size driveways in the area; and that the applicant will be making improvements to the home. Member Jarboe asked if the exterior of the garage will be brick. Ms. Linares said yes. Ms. Linares asked the Board if this case could be transmitted prior to the minutes being approved. Emily Liu, Planning & Design's Director, said the Board could allow this but at the applicant's own risk.

The following spoke neither for nor against the request:

No one.

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

No one.

The following spoke in opposition to this request:

No one.

Summary of testimony of those in opposition:

No one.

Deliberation:

Board of Zoning Adjustment deliberation.

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Variance—To allow a driveway to exceed the maximum width of 20 feet and be as much as 35 feet wide:

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

WHEREAS, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a variance from Article 10.1.A.2.a of the Development Code (April 2001) to allow a driveway to exceed the maximum width of 20 feet and be as much as 35 feet wide; and

WHEREAS, the Board finds that the requested variance will not adversely affect the public health, safety or welfare as the proposal does not demand an expansion to the width of the pavement at the curb providing direct access to Winchester Road, thus, maintaining the same traffic pattern as previously existing along the block and in the neighborhood as well as preserving the existing safety and mobility of pedestrians and vehicular traffic; and

WHEREAS, the Board finds that the variance will not alter the essential character of the general vicinity as the portion of the driveway within the public right-of-way will not be altered; additionally, the driveway serves an accessory function to the principal structure that is the predominant structure in evaluating the character of the neighborhood; and

WHEREAS, the Board finds that the variance will not cause a hazard or nuisance to the public because no changes are proposed to the existing driveway width within the right-of-way; and

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WHEREAS, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the expansion of the garage which is an addition to the principal structure is in compliance with all applicable zoning regulations within the City of St. Matthews; and

WHEREAS, the Board finds that the variance arises from special circumstances which do not generally apply to land in the general vicinity because the subject property is a corner lot which poses certain constraints on the development of the lot that are not necessarily present in traditional or suburban mid-block lots; and

WHEREAS, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as the proposed driveway serves as a means of access to a garage that is compliant with all applicable zoning regulations within the City of St. Matthews; and

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow a driveway to be as much as 35 feet in width; and

BE IT FURTHER RESOLVED, that this action be effective immediately at the applicant's own risk.

YES: Members Allendorf, Fishman, Jarboe, Turner and Proffitt.

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Bergmann and Tharp.

ABSTAINING: No one.

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NEW BUSINESS

CASE NO. 15CUP1044

Request: Conditional Use Permit to allow off-street parking in an R-4 zoning district.

Project Name: Café' Press

Location: 11901 & 11909 Shelbyville Road

Owner: Hameron Properties I, LLC
1500 S. Pope Lick Road
Louisville, KY 40299

Applicant: Café Press, Inc.
Garrett Jackson, CFO
6901 Riverport Drive
Louisville, KY 40258

Representative: Land Design & Development
Kevin Young/Ann Richard
503 Washburn Avenue, Suite 101
Louisville, KY 40222

Attorney: Bardenwerper Talbott & Roberts, PLLC
Nick Pregliasco, Esq.
10000 N. Hurstbourne Parkway, 2nd Floor
Louisville, KY 40223

Jurisdiction: City of Middletown

COUNCIL DISTRICT 19—Julie Denton

Staff Case Manager: Jon Crumby, Planning Coordinator

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

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

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

Agency Testimony:

Staff case manager, Jon Crumbie discussed the case summary, standard of review and staff analysis from the staff report. He said the proposal will consist of 40 parking spaces. A previous CUP for off-street parking was approved for the site, but never built and the CUP expired. He said this request is the same as what was approved; and meets the standard of review. Mr. Crumbie submitted additional letters from area residents into the record that he received over the weekend.

The following spoke in favor of this request:

Nick Pregliasco, Attorney.

Kevin Young.

Summary of testimony of those in favor:

Nick Pregliasco, the applicant's attorney, presented a PowerPoint presentation to the Board and submitted an exhibit book into the record. He said only one person showed up to the neighborhood meeting and was not opposed. Member Fishman said someone sent a letter in opposition due to lack of privacy in their backyard which includes a pool. Mr. Pregliasco said they will be installing a double-sided wooden privacy fence and evergreen trees for mitigation. Member Jarboe asked if the existing trees will be removed. Mr. Pregliasco said yes, but will be replanted.

Kevin Young, the applicant's representative, said it is to their benefit to save any trees on the property for landscaping credit. He said they will be planting oak, maple and evergreen trees. He agreed to a condition of approval that they will not remove any of the existing trees within 15 feet of the south property line and the subject property, except the underbrush. Member Jarboe asked why they need so much parking. Mr. Young said the building has sat vacant for 15 years and Café Press corporate offices will have 120 employees.

The following spoke neither for nor against the request:

No one.

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Summary of testimony of those who spoke neither for nor against:
No one.

The following spoke in opposition to this request:
William King, 215 Linney Avenue, Louisville, KY 40243.

Sherry Casey, P.O. Box 43035, Louisville, KY 40253.

Summary of testimony of those in opposition:

William King said he is concerned about the privacy of his family since they have a swimming pool in the back. He said he has owned his home since 1989, prior to the building and parking being constructed. He said as this point, there is a lot of space between his backyard and the parking area, but this request will only be 6 feet away. Mr. King said he is also concerned about declining property values in the neighborhood.

Sherry Casey said she has been fighting this development since she bought her house; and was told nothing would be built on the R-5 property, but that there was nothing in writing. Ms. Casey submitted information from the previous hearings into the record. Member Turner asked her if she wants to keep the existing buffer as is. Ms. Casey said yes, and that a condition of approval should be included. She said she would also like an awning put on the building so people in the offices can't peer down into their yards.

Discussion/Rebuttal:

Chair Proffitt asked Mr. Young if they could plant anything near the south side of the building. Mr. Young said there's an existing power line. Chair Proffitt said the evergreen trees should be 12-14 feet tall to protect the neighbors'. Mr. Young said he would have to ask his client, but said a 10 ft. tall fence and evergreens would immediately buffer the properties. Member Jarboe read part of the previous minutes into the record which stated that the area near Linney Avenue would be preserved. Mr. Pregliasco said a CUP was approved in 2000; and said the portion they are referring to is R-4. Mr. King asked Mr. Young how many feet would be between the privacy fence and building. Mr. Young said over 100 feet. Ms. Casey asked if the existing trees will remain. Mr. Young said any trees near the property line or within 15 feet will remain. Mr. Young agreed to include a 10 ft. double-sided privacy tall fence along the entire southern property line.

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Deliberation:

Member Allendorf said he feels the applicant is doing their best to protect the neighbors, since they agreed to build a 10-ft. tall double sided fence; adding large evergreen trees and leaving the existing mature trees. The Board discussed the conditions of approval in detail.

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the December 21, 2015 public hearing proceedings.

Conditional Use Permit to allow off-street parking in an R-4 zoning district:

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

WHEREAS, the Board finds from the file of this case, the staff report including the standard of review, the site plan; the PowerPoint presentations; the evidence including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a Conditional Use Permit to allow off-street parking in an R-4 zoning district; and

WHEREAS, the Board finds that the property is within the Suburban Marketplace Corridor form district; and

WHEREAS, the Board finds that the proposal is consistent with the applicable policies of the Comprehensive Plan because lighting and landscaping will be code compliant; and

WHEREAS, the Board finds that the proposal is compatible with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting etc. because the subject site is located in a commercial area that has a mix of commercial, office and residential uses; and because the commercial and office uses in the area have similar, scale, intensity, traffic, noise and lighting; and

WHEREAS, the Board finds that the necessary facilities (both on and off-site) such as transportation, sanitation, water, sewer, drainage etc. because the

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proposal has been reviewed and preliminarily approved by Transportation Planning and MSD; and

WHEREAS, the Board finds that the proposal complies with all six specific standards required to obtain the conditional use permit;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow off-street parking in an R-4 zoning district on the site **SUBJECT** to the following Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approved 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 off-street parking without further review and approval by the Board.
3. A 10-ft. tall, two-sided privacy fence shall be provided along the entire south property line once a variance is applied for and approved by the Board. If this variance is not approved, then the applicant shall provide a two-sided privacy fence no less than 8 feet tall along the entire south property line.
4. The applicant shall provide staggered evergreen trees along the south property line, every 15 feet, on center; and as tall as possible.
5. All trees within 15 feet of the south property line and the subject property shall remain, except the underbrush.

YES: Members Allendorf, Fishman, Jarboe, Turner and Proffitt.

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Bergmann and Tharp.

ABSTAINING: No one.

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NEW BUSINESS

CASE NO. B-17728-12

Request: Conditional Use Permit to allow an indoor recycling center in an M-2 Zoning District; a sidewalk waiver from the Land Development Code along Dixie Highway; and waivers to omit the required buffering and plantings along the north, south and west property lines.

Project Name: Dixie Scrap Metal

Location: 13817 Dixie Highway

Owner: Shelby Givens
13817 Dixie Highway
Louisville, KY 40272

Applicant: James Chestnut
Dixie Scrap Metal
13817 Dixie Highway
Louisville, KY 40272

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 14—Cindi Fowler

Staff Case Manager: Jon Crumbie, Planning Coordinator

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

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

Agency Testimony:

Staff case manager, Jon Crumbie discussed the case summary, standard of review and staff analysis from the staff report. He said the applicant needs to

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submit a Revised Detailed District Development Plan; and that all violations will need to be resolved. Mr. Crumbie said the applicant will need to provide a permit from the Jefferson County Waste Management District for operation of the indoor recycling business (page 3 of staff report); and that the applicant is asking the Board to modify Item c. (page 4 of staff report) that the building will be 135 feet from a residential district(s) instead of the required 200 feet. Member Fishman asked if the applicant has approval for the existing signage. Mr. Crumbie said no.

The following spoke in favor of this request:

James Chestnut.

Summary of testimony of those in favor:

James Chestnut said he has been in business since March 2012; and received permits for the signage. Chair Proffitt asked if he removed the banner signage. Mr. Chestnut said yes, in 2012. Member Jarboe asked if he's been operating the business without a CUP since 2012. Mr. Chestnut said a previous case manager told him he needed a change in zoning but later found out he needed a CUP. He said he applied for it, but the case did not move forward. Member Fishman asked if he received the permit from Waste Management. Mr. Chestnut said yes, and if it's not in the file, he will submit a copy to staff. Member Fishman asked if there is any hazardous material being handled. Mr. Chestnut said no. He said he is also working on cleaning up the items that are being stored outside, which were items moved from another location that closed. Member Fishman asked about mud being tracked out on the road. Mr. Chestnut said he could use a pressure washer on the trucks; and will be adding more gravel to the site. Member Jarboe asked why he could not provide any buffering or plantings. Mr. Chestnut said he had complaints from the Marathon gas station that their customers could not see it.

The following spoke neither for nor against the request:

No one.

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

No one.

The following spoke in opposition to this request:

No one.

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Summary of testimony of those in opposition:

No one.

Deliberation:

Chair Proffitt said he doesn't think the Board should be approving a CUP without knowing if a permit has been received from Waste Management. He said the applicant needs to submit something in writing that dirt will not be tracked out onto the road. Member Fishman said the applicant should submit the signage permits.

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the December 21, 2015 public hearing proceedings.

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

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** this case to **FEBRUARY 1, 2016** to allow the applicant time to submit a Revised Detailed District Development Plan; submit a copy of the permit from Jefferson County Waste Management District; submit verification of signage permits; submit a plan for improving the parking lot to avoid tracking mud/dirt from the business to the roadway; and remove the items that are being stored outside that are in violation of the Land Development Code.

YES: Members Allendorf, Fishman, Jarboe, Turner and Proffitt.

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Bergmann and Tharp.

ABSTAINING: No one.

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NEW BUSINESS

CASE NO. 15DEVPLAN1176

Request: Variance from the Land Development Code to allow a proposed office addition to exceed the maximum front setback.

Project Name: White Clay

Location: 1509 Story Avenue

Owner: White Clay
Lester M. Thompson, II
1515 Story Avenue
Louisville, KY 40206

Applicant: Kiel Thomson Company
Christina McDaniel
100 Weist Place
Louisville, KY 40206

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 9—Bill Hollander

Staff Case Manager: Laura Mattingly-Humphrey, Planner I

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

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

Agency Testimony:

Staff Case Manager, Laura Mattingly Humphrey discussed the case summary, standard of review and staff analysis from the staff report. She said the applicant is proposing a rear 2,761 square foot addition to the existing building for office space. The applicant has received the Certificate of Appropriateness from the

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Butchertown Architectural Review Committee; and meets the standard of review. Member Fishman asked what kind of business White Clay is.

The following spoke in favor of this request:

Christina McDaniel.

Summary of testimony of those in favor:

Christina McDaniel, the applicant's representative, said White Clay is an information solutions and management consulting business. Member Fishman asked if the exterior would be wood. Ms. McDaniel said yes. Member Fishman asked if she spoke with any of the neighbors. Ms. McDaniel's said no, but said that the Butchertown Neighborhood Association is not opposed.

The following spoke neither for nor against the request:

No one.

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

No one.

The following spoke in opposition to this request:

No one.

Summary of testimony of those in opposition:

No one.

Deliberation:

Member Jarboe stated that the existing building has established the setback and pattern of development.

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the December 21, 2015 public hearing proceedings.

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

DECEMBER 21, 2015

NEW BUSINESS

CASE NO. 15DEVPLAN1176

Variance—To allow an office addition to exceed the maximum front setback:

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

WHEREAS, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a variance from Section 5.2.3.D.3 of the Land Development Code to allow an office addition to be 153' 2" from the front property line (requirement 15' from line of right-of-way; or a variance of 138' 2"); and

WHEREAS, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the proposed addition will not obstruct visibility or motor vehicles from the public right-of-way or the mobility or safety of pedestrians; and

WHEREAS, the Board finds that the variance will not alter the essential character of the general vicinity because the addition will be in the rear and allows the historic building and façade to remain and be restored to maintain its original historic character; and

WHEREAS, the Board finds that the variance will not cause a hazard or nuisance to the public because the building addition will be located at the rear of the property and maintains a permitted use; and because the site is currently vacant, deteriorating and subject to vandalism; and because this project will be improving the site aesthetically and functionally; and

WHEREAS, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the proposal is a result of the existing conditions on the lot; and

WHEREAS, the Board finds that the variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the existing structure has a deep setback with parking in the front that is unusual for historic neighborhoods; and

**MINUTES OF THE MEETING
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DECEMBER 21, 2015

NEW BUSINESS

CASE NO. 15DEVPLAN1176

WHEREAS, the Board finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because following the setback requirement would not allow the existing façade to remain and would not allow the applicant to use the existing conditions in the most efficient way; and

WHEREAS, the Board finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the building pattern of the site had been previously established prior to the current regulation;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow the office addition to be 153' 2" from the front property line.

YES: Members Allendorf, Fishman, Jarboe, Turner and Proffitt.

NO: No one.


NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Bergmann and Tharp.

ABSTAINING: No one.


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

DECEMBER 21, 2015

The meeting adjourned at 11:10 a.m.



CHAIRPERSON



SECRETARY