

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

**NOVEMBER 3, 2014**

A meeting of the Louisville Metro Board of Zoning Adjustment was held at 8:40 A.M. on Monday, November 3, 2014, 514 West Liberty Street, Old Jail Building, Old Jail Court Room, Louisville, Kentucky.

**Members present:**

Mike Allendorf, Vice Chairperson (Acting Chair)  
Rosalind Fishman, Secretary  
Betty Jarboe  
Dean Tharp  
Paul Bergmann

**Members absent:**

David Proffitt, Chairperson  
Frederick Liggin

**Staff members present:**

Jonathan Baker, Legal Counsel  
Steve Hendrix, Planning Supervisor  
Joe Reverman, Planning Manager  
Sherie Long, Landscape Architect  
Jon Crumble, Planner II  
Latondra Yates, Planner II  
Matthew Doyle, Planner I  
Beth Stevenson, Management Assistant

**Others present:**

April Robbins, Code Enforcement Supervisor

The following cases were heard:

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**APPROVAL OF MINUTES**

**OCTOBER 20, 2014 BOARD OF ZONING ADJUSTMENT MEETING MINUTES**

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

**RESOLVED**, that the Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on October 20, 2014.

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

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Proffitt and Liggin.**

**ABSTAINING: No one.**

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**NOVEMBER 3, 2014**

**NEW BUSINESS:**

**CASE NO. 14VARIANCE1088**

**Request:** Variances from the Land Development Code to allow proposed structures to exceed the maximum setback.

**Project Name:** Old Henry Crossing Lots 11C & D

**Location:** 2000-2020 High Wickham Place

**Owners:** Guidance Property Management Group  
James Szeszulski  
4100 Myers Avenue  
Crestwood, KY 40014

OREO 2 LLC  
Darryl Schulte  
2120 High Wickham Place, Ste. 200  
Louisville, KY 40245

**Applicant:** OREO 2 LLC  
Darryl Schulte  
2120 High Wickham Place, Ste. 200  
Louisville, KY 40245

**Representative:** Sabak, Wilson & Lingo, Inc.  
Matt Wolff  
608 S. Third Street  
Louisville, KY 40202

Stites & Harbison, PLLC  
Jamie Cox  
400 West Market St., #1800  
Louisville, KY 40202

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 19—Jerry Miller**  
**Staff Case Manager: Matthew Doyle, Planner I**  
**(CONTINUED FROM OCTOBER 6, 2014)**

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**NEW BUSINESS:**

**CASE NO. 14VARIANCE1088**

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

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

**Agency Testimony:**

Staff Case Manager, Matthew Doyle discussed the case summary, standard of review and staff analysis from the staff report. The applicant is proposing 1, 2-story office building on Lot C and 2 office buildings on Lot D and will exceed the required 80 ft. maximum setback. LD&T approved the Detailed District Development Plan on October 23, 2014. Mr. Doyle said he received a comment from the General Manager of the Lake Forest Community Association stating that the residents do not want the office buildings to be too close to their lots.

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

Matt Wolff.

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

Matt Wolff, the applicant's representative, said they will be adding 1 ½ times the required screening.

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

No one.

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

No one.

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

No one.

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

No one.

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**Deliberation:**

Member Bergmann said the setbacks are within the applicant's property, so it won't affect the Lake Forest Community.

**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 November 3, 2014 public hearing proceedings.**

**Variances to allow Buildings 3 and 4 to exceed the required maximum setback of 80 feet as shown on the development plan:**

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 variances from Section 5.3.1.C.5 of the Land Development Code to allow buildings 3 and 4 to exceed the maximum setback of 80 feet as shown on the development plan; and

**WHEREAS**, the Board finds that the requested variances will not adversely affect the public health, safety or welfare since the proposed setbacks of the buildings are consistent with and reflect the intent of the approved general district development plan; and

**WHEREAS**, the Board finds that the variances will not alter the essential character of the general vicinity since the proposed setbacks of the buildings are consistent with and reflect the intent of the approved general district development plan; and

**WHEREAS**, the Board finds that the variances will not cause a hazard or nuisance to the public since the proposed setbacks of the buildings are

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consistent with, and reflect the intent of the approved general district development plan; and

**WHEREAS**, the Board finds that the variances will not allow an unreasonable circumvention of the zoning regulations since the proposed setbacks of the buildings are consistent with and reflect the intent of the approved general district development plan; 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 proposed setbacks of the buildings are consistent with and reflect the intent of the general district development plan, which was approved prior to the adoption of the current Land Development Code that established form districts;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variances.

**The variances allow:**

1. Building #3 to be 110 feet from the west property line.
2. Building #4 to be 190 feet from the north property line.

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

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Proffitt and Liggin.**

**ABSTAINING: No one.**

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**NOVEMBER 3, 2014**

**NEW BUSINESS:**

**CASE NO. 14CUP1033**

**Request:** Modified Conditional Use Permit of the Land Development Code to allow an expansion of the existing hospital.

**Project Name:** Jewish Hospital & St. Mary's Healthcare Emergency Room expansion.

**Location:** 1850 Bluegrass Avenue

**Owner:** Jewish Hospital & St. Mary's Healthcare, Inc.  
Jennifer Nolan, President  
1850 Bluegrass Avenue  
Louisville, KY 40215

**Applicant:** HDR  
Kenan G. Stratman  
401 West Main Street, Suite 500  
Louisville, KY 40202

**Architect:** James T. Watkins  
4707 Redbud Forest Place  
Louisville, KY 40245.

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 15—Marianne Butler**

**Staff Case Manager:** Christopher Brown, Planner II, presented by Steve Hendrix, Planning Supervisor

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

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

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**NEW BUSINESS:**

**CASE NO. 14CUP1033**

**Agency Testimony:**

Steve Hendrix, Planning Supervisor, presented the case for staff case manager, Christopher Brown, and discussed the case summary, standard of review and staff analysis from the staff report. He said the Modified Conditional Use Permit will allow 9,904 square foot expansion to the existing emergency room and meet all Land Development Code requirements. The applicant is proposing 15 parking spaces along the front of the emergency room expansion.

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

James Watkins, Architect.

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

James Watkins, the applicant's architect, discussed the Certificate of Occupancy and said the parking requirements will be met.

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

No one.

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

No one spoke as an interested party.

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

No one.

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

No one spoke in opposition.

**Deliberation:**

Board of Zoning Adjustment deliberations.

**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 November 3, 2014 public hearing proceedings.**



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**NOVEMBER 3, 2014**

**NEW BUSINESS:**

**CASE NO. 14CUP1033**

**Modified Conditional Use Permit to allow an expansion of the existing  
Emergency Room:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review, the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a Modified Conditional Use Permit under Chapter 4.2.29, to allow a 9,904 square foot expansion to the existing Emergency Room; and

**WHEREAS**, the Board finds that the proposal is consistent with the applicable policies of the Comprehensive Plan maintaining the form and compatibility on the existing site; and

**WHEREAS**, the Board finds that the proposal is compatible with the surrounding land uses and maintains the current use of the parcel in an expanded form; and because it is compatible with the general character of the area by maintaining the required setbacks, buffering and following the drainage and lighting requirements on the parcel; and

**WHEREAS**, the Board finds that all necessary public facilities are provided to serve the proposed use both on and off site; and

**WHEREAS**, the Board finds that the proposal complies with the specific standards for the Conditional Use Permit by following the Land Development Code for the attached signage and the expansion being setback further than 30 feet from the adjacent roadway;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Modified Conditional Use Permit to allow a 9,904 square foot expansion to the existing Emergency Room on the site **SUBJECT** to the following Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.

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2. The 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 Modified Conditional Use Permit is not so exercised, the site shall not be used for the hospital expansion without further review and approval by the Board.

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

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Proffitt and Liggin.**

**ABSTAINING: No one.**

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**NOVEMBER 3, 2014**

**NEW BUSINESS:**

**CASE NO. 14DEVPLAN1134**

**Request:** Variances and waivers from the Land Development Code and a Category 3 Plan for the construction of a parking garage.

**Project Name:** J.D. Nichols Parking Garage

**Location:** 220 S. Preston Street

**Owner:** Nucleus: Kentucky's Life Sciences and Innovation Center, LLC  
Kathleen M. Smith  
103 Grawemeyer Hall/U of L  
Louisville, KY 40292

**Applicant:** NTS Development Company  
Matthew A. Ricketts  
600 North Hurstbourne Pkwy., Ste. 300  
Louisville, KY 40222

**Attorney:** Frost Brown Todd, LLC  
Glenn Price  
400 W. Market Street, Ste. 3200  
Louisville, KY 40202

**Representative:** Dunaway Engineering, Inc.  
Kimberly P. Dunaway  
3404 Stony Spring Circle  
Louisville, KY 40220

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT:** 4—David Tandy  
**Staff Case Manager:** Latondra Yates, Planner II

**(The applicant is requesting deferral to the November 17, 2014 BOZA hearing).**

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**NEW BUSINESS:**

**CASE NO. 14DEVPLAN1134**

**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 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 November 3, 2014 public hearing proceedings.**

**DISCUSSION:**

Member Allendorf announced that the applicant requested that this case be continued to November 17, 2014. He asked if anyone was present for this case to testify, but no one responded. No testimony was taken.

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

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** this case to **NOVEMBER 17, 2014**.

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

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Proffitt and Liggin.**

**ABSTAINING: No one.**

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**NOVEMBER 3, 2014**

**NEW BUSINESS:**

**CASE NO. 14APPEAL1007**

**Request:** An Appeal of a Notice of Violation issued by the Department of Codes and Regulations concerning nonconforming use rights for a landscaping business in an R-4 zoning district.

**Location:** 8200 Cedar Creek Road

**Appellant:** Raymond Holding Company, LLC  
Jeanine Raymond  
8200 Cedar Creek Road  
Louisville, KY 40291

**Owner:** Same as appellant

**Attorneys:** Graham Whatley/J. Robert Yates  
436 S. 7<sup>th</sup> Street, Ste. 100  
Louisville, KY 40203

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 22—Robin Engel**

**Staff Case Manager: Steve Hendrix, Planning Supervisor**

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

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

**Background:**

On August 14, 2014 a Notice of Violation was issued and an application for Nonconforming Rights was submitted on September 17, 2014, however, that

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**NEW BUSINESS:**

**CASE NO. 14APPEAL1007**

application is not available for properties that have been cited. An Appeal application was submitted on October 3, 2014.

On November 3, 2014, at a meeting of the Board, a hearing was held on the case. A drawing showing the premises affected and the existing and/or proposed construction was presented to each Board member.

**Agency Testimony:**

Steve Hendrix, case manager, said that the appellant is claiming that nonconforming rights exist on the property continuously utilized for industrial purposes since 1951 and the landscaping business for the last 7 years. He said since the property is within the former Jefferson County, 1943 is the base year for the appellant to prove nonconforming use rights.

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

No one.

**Summary of testimony of those in opposition**

No one.

**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 favor of the request:**

Graham Whatley, Attorney, 436 S. 7<sup>th</sup> Street, Ste. 100, Louisville, KY 40203

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

Graham Whatley, the appellant's attorney, said he would like to continue this case, since he just received the staff report and needs time to gather legal documents. Mr. Whatley submitted photographs into the record. Staff discussed optional dates. Mr. Whatley said December 15, 2014 is preferable.

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

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**NEW BUSINESS:**

**CASE NO. 14APPEAL1007**

**copy. The recording of this hearing will be found on the CD of the November 3, 2014 public hearing proceedings.**

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

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** this case to **DECEMBER 15, 2014**.

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

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Proffitt and Liggin.**

**ABSTAINING: No one.**

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**NOVEMBER 3, 2014**

**NEW BUSINESS:**

**CASE NO. 14VARIANCE1094**

**Request:** Variances from the Land Development Code to allow a structure to exceed the maximum setback; and a waiver to not provide the required entrance and not provide 50% of the wall surface in clear glass windows and doors along the North Peterson Avenue frontage.

**Project Name:** Chatsworth Park Apartments Office Addition

**Location:** 122 North Peterson Avenue

**Owner:** Brown Noltemeyer Company  
c/o Bill Bardenwerper, Attorney  
122 N. Peterson Avenue  
Louisville, KY 40206

**Applicant:** Same as Owner

**Attorney:** Bill Bardenwerper, Esq.  
Bardenwerper Talbott & Roberts, PLLC  
1000 N. Hurstbourne Parkway, 2<sup>nd</sup> Floor  
Louisville, KY 40223

**Representative:** Keal & Associates  
Mike Keal, Engineer  
410 W. Chestnut Street  
Louisville, KY 40202

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 9—Tina Ward-Pugh**

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

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

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and was available



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to any interested party prior to the public hearing. (The staff report is part of the case file maintained at the Planning and Design Services offices located at 444 S. 5<sup>th</sup> Street).

**Agency Testimony:**

Staff Case Manager, Sherie' Long discussed the case summary, standard of review and staff analysis from the staff report. She said the applicant is requesting 2 variances and 1 waiver now since the addition has mostly been built. A Stop Work Order was issued on October 27, 2014. Ms. Long said the applicant could incorporate additional landscaping along North Peterson Avenue to increase compatibility of the new addition with the surrounding neighborhood.

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

Bill Bardenwerper, Attorney.

Mike Keal, Engineer.

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

Bill Bardenwerper, the applicant's attorney, said his client applied for the building permit but didn't realize they needed variances and a waiver. Mr. Bardenwerper agreed to conditions of approval regarding enlarging the two windows to three times their size.

Mike Keal, the applicant's engineer, said he will agree to a condition of approval to increase the landscaping as suggested by Ms. Long.

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

No one.

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

No one.

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

No one.

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

No one.

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**NEW BUSINESS:**

**CASE NO. 14VARIANCE1094**

**Deliberation:**

The Board declared their disappointment with the applicant not receiving permits prior to building the structure. Member Allendorf said the Board could also add a condition of approval that the applicant receive all necessary inspections and permits and have a Codes and Regulations inspector/Building inspector report back to the Board with their findings as a business session item. There were other conditions of approval discussed that the applicant's attorney agreed to.

**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 November 3, 2014 public hearing proceedings.**

**Variances to allow a structure to exceed the maximum setbacks:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the applicant's exhibit book and other evidence, testimony and discussion at the public hearing that the applicant is requesting variances from the Land Development Code, Chapter 5, and Section 5.5.1.A.2, to allow a 1,283 square foot addition to be used for additional rental/management office space to exceed the maximum setback; and

**WHEREAS**, the Board finds that the requested variances will not adversely affect the public health, safety or welfare because the addition is not obstructing views of vehicular or pedestrian traffic; and

**WHEREAS**, the Board finds that the variances will not alter the essential character of the general vicinity because the new addition will be constructed with brick and similar materials to those used in the neighborhood and the apartment complex; and because the new addition is in keeping with the scale of the existing structures in the apartment development; and

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**WHEREAS**, the Board finds that the variances will not cause a hazard or nuisance to the public because the new addition is being constructed with materials, which are already being used in the neighborhood and apartment complex; and because the addition is being added is very small when compared to the overall size of the existing development; and

**WHEREAS**, the Board finds that the variances will not allow an unreasonable circumvention of the zoning regulations since this is an existing apartment complex which has an established setback; and because the addition is in keeping with the layout and design of the existing complex buildings; and

**WHEREAS**, the Board finds that the variances arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the existing layout of the apartment complex has established setbacks which are non-conforming with the current design layout requirements building at the right-of-way line; therefore, to build at the right-of-way would not be in keeping with the existing development pattern; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because either a larger addition or a new building would need to be built at the corner; plus, the existing parking spaces located in the expansion area would be either eliminated or relocated; and

**WHEREAS**, the Board finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation; but rather the result of this being a very small addition to an existing apartment community that pre-dates the current version of the Land Development Code;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variances **ON CONDITION:**

**The condition is as follows:**

1. The applicant shall receive all necessary inspections and permits; and a Codes and Regulations/Building Inspector shall report back to the Board regarding the status as a business session item on the agenda.

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**The variances allow:**

1. The structure to be 30 feet 5 inches from the North Peterson Avenue property line.
2. The structure to be 52 feet 3 inches from the Lexington Avenue frontage.

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

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Proffitt and Liggin.**

**ABSTAINING: No one.**

**Waiver to not provide the required entrance and to not provide 50% of the wall surface in clear glass and doors along the North Peterson Avenue frontage:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review; the site plan; the PowerPoint presentations; the applicant's exhibit book and other evidence, testimony and discussion at the public hearing that the applicant is requesting a waiver from Chapter 5, and Sections 5.5.1.A.1.b and 5.6.1.C.1 of the Land Development Code to allow the applicant to not provide the required entrance and to not provide 50% of the wall surface in clear glass windows and doors along the North Peterson Avenue frontage; and

**WHEREAS**, the Board finds that the requested waiver will not adversely affect adjacent property owners because the building materials will be compatible with the existing building and other nearby properties; and because the applicant agreed to enlarge the two windows along North Peterson Avenue which will be three times the current size with direction from staff's architect; and because the applicant agreed to install additional landscaping along the North Peterson Avenue frontage; and

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**WHEREAS**, the Board finds that the waiver will not violate specific guidelines of Cornerstone 2020 which promotes the use of similar materials to help new development blend into the surrounding neighborhood character; and because the applicant agreed to enlarge the two windows along North Peterson Avenue which will be three times the current size with direction from staff's architect; and because the applicant agreed to install additional landscaping along the North Peterson Avenue frontage; and

**WHEREAS**, the Board finds that the extent of the waiver is the minimum necessary to afford relief to the applicant because the applicant agreed to enlarge the two windows along North Peterson Avenue which will be three times the current size with direction from staff's architect; and because the applicant agreed to install additional landscaping along the North Peterson Avenue frontage; and

**WHEREAS**, the Board finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived because the applicant agreed to enlarge the two windows along North Peterson Avenue which will be three times the current size with direction from staff's architect; and because the applicant agreed to install additional landscaping along the North Peterson Avenue frontage;

**RESOLVED**, that the Board does hereby **GRANT** the waiver to not provide the required entrance and to not provide 50% of the wall surface in clear glass windows and doors along North Peterson Avenue **ON CONDITION:**

**The conditions are as follows:**

1. Additional landscaping shall be provided along North Peterson Avenue side of the property.
2. The two existing windows along North Peterson Avenue shall be enlarged three times the current size with direction from staff's architect.
3. The applicant shall receive all necessary inspections and permits; and a Codes and Regulations Inspector/Building Inspector shall report back to the Board regarding the status as a business session item.

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

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Proffitt  
and Liggin.**

**ABSTAINING: No one.**

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**NOVEMBER 3, 2014**

**NEW BUSINESS:**

**CASE NO. 14CUP1023**

**Request:** Conditional Use Permit to allow a Bed and Breakfast and a Private Proprietary Club in an RE zoning district.

**Project Name:** The Anchorage

**Location:** 804 Evergreen Road

**Owner:** The Anchorage, LLC  
Neil Ramsey, Manager and Member  
804 Evergreen Road  
Louisville, KY 40243

**Applicant:** Same as owner

**Attorney:** Bill Bardenwerper  
Bardenwerper, Talbott & Roberts, PLLC  
1000 N. Hurstbourne Pkwy., 2<sup>nd</sup> floor  
Louisville, KY 40223

**Representative:** Land Design & Development, Inc.  
Kevin Young  
503 Washburn Avenue, Ste. 101  
Louisville, KY 40222

**Jurisdiction:** Anchorage

**COUNCIL DISTRICT 17—Glen Stuckel**  
**Staff Case Manager: Jon Crumbie, Planner II**

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

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

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**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 would like to replace the signage to a freestanding monument style sign; and that parking will be in the rear. He said the Board may want to add the hours of operation as a condition of approval.

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

Bill Bardenwerper, Attorney, 1000 N. Hurstbourne Pkwy., 2<sup>nd</sup> floor, Louisville, KY 40223.

Kevin Young, 503 Washburn Ave., Ste. 101, Louisville, KY 40222.

Steve Clements, Manager/Operator of The Anchorage, LLC, 906 Evergreen Road, Louisville, KY 40223.

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

Bill Bardenwerper, the applicant's attorney, said the property was in disrepair and that the new owners' have remodeled it keeping the historic design of the home. He said MSD will be extending the sewers on the property while saving the trees. Mr. Bardenwerper said his client agreed to the adopted Anchorage Bed & Breakfast Restrictions/Guidelines; the Anchorage Private Club and Special Event Restrictions which would coincide with the approved Conditional Use Permit.

Kevin Young, the applicant's representative, discussed the access improvements; the MSD sewer line extension; and said the signage will be along Evergreen Road.

Steve Clements said the home was built in the 1800's; and that the owner wanted to preserve it instead of subdividing the property for new homes.

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

Diane Cook, Anchorage City Council Member, 11941 Creel Lodge Drive, Anchorage, KY 40223.



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

Diane Cook, Anchorage City Council Member, said they are not opposed if all the restrictions are agreed to. She emphasized that the CUP would only exist if the owners' Neil and Ann Ramsey live on the subject or adjoining property.

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

Jeff Waring, 1103 Evergreen Road, Louisville, KY 40223; who submitted a petition of area residents in opposition to the private club into the record.

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

Jeff Waring said information about this proposal has changed over time and that he and other neighbors' are opposed to the private club (submitted a petition of opposition into the record). He said Evergreen Road is already heavily traveled and this proposal will increase traffic further. He said the sewers will not handle the number of people allowed per the restrictions. Mr. Waring said he and other area residents are not opposed to the bed and breakfast use—just the “after the fact” private club.

**Rebuttal:**

Mr. Bardenwerper said the City of Anchorage will be policing the property; and said they have a practical amount of events with the agreed upon restrictions.

**Deliberation:**

The Board discussed changes they wanted to make to the restrictions adopted by the City of Anchorage.

**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 November 3, 2014 public hearing proceedings.**

**Conditional Use Permit to allow a Bed & Breakfast and a Private Proprietary Club in an RE zoning district:**

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

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**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review, the site plan; the PowerPoint presentations; the evidence including the applicant's exhibit book, testimony and discussion at the public hearing that the applicant is requesting a Conditional Use Permit both for a bed and breakfast and a private proprietary social club, given that the two are related based on shared grounds, facilities and staff; and

**WHEREAS**, the Board finds that the proposal meets all applicable policies of Comprehensive Plan; including Guideline 1 (Community Form), because the proposed bed and breakfast and private club utilize existing historic buildings which are built mostly in the center of the site around each other, surrounded by open space, so it is compact; and because lighting will not be added; and

**WHEREAS**, the Board finds that the proposal complies with Guidelines 4 (Open Space); Guideline 5 (Natural Areas, Scenic & Historic Resources); and 13 (Landscape Character) because the subject site is located in a residential area which is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development; and because the site will remain largely open, with natural and scenic areas preserved as well as the historic home and buildings, most of which have already been fully revitalized; and because landscaping is abundant and will be barely disturbed; and

**WHEREAS**, the Board finds that necessary public facilities (both on and off site), such as transportation, sanitation, water, sewer, drainage, emergency services, education, recreation etc. are adequate to serve the proposed use because the proposal has been reviewed by Public Works and MSD and both have approved the plan; and

**WHEREAS**, the Board finds that the proposed bed and breakfast complies with 7 of the 8 specific standards required to obtain the conditional use permit, including Ordinance No. 4, Series 2014 passed by the City of Anchorage, Item A (page 3 of the staff report) and other changes made to the conditions of approval by the Board regarding specifics of running the bed and breakfast (hours of operation etc.) and where Item G does not apply; and

**WHEREAS**, the Board finds that the proposed private proprietary club complies with 3 of the 4 specific standards required to obtain the conditional use

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permit, because the applicant has agreed to one freestanding monument style sign not exceeding 20 square feet in area per side, shall not have more than two sides, and shall not exceed a height of six feet; and because the sign shall not project into any required yard; and because this sign may be illuminated but non-flashing; and because the required front yard setback in the City of Anchorage is 90 feet; and the proposed sign will be located on the front property line once right-of-way is dedicated;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow a Bed and Breakfast and a Private Proprietary Club on the site **SUBJECT** to the following Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
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 Bed & Breakfast or a Private Proprietary Club without further review and approval by the Board.
3. Operations of the Bed & Breakfast are allowed 365 days per year. (Breakfast meal service included for overnight guests)
4. A maximum of 18 overnight guests will be allowed per day at the Bed & Breakfast.
5. A maximum of two (2) guests will be allowed per room at the Bed & Breakfast.
6. Off-street parking for 40 cars will be provided for the Bed & Breakfast.
7. The Bed & Breakfast business is restricted to a minimum lot size of seven (7) acres.

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8. The Bed & Breakfast business will comply with the City Noise Ordinance at all times—applicable for the Anchorage CN District.
9. The Bed & Breakfast cannot conduct any outdoor activities and/or events that are attended by anyone that is not a current registered overnight guest.
10. Twelve (12) events per year will be allowed with a maximum attendance of 125 guests who are not registered guests of the Bed & Breakfast.
11. The 125 person restriction will be waived if a non-profit organization serving the City of Anchorage is sponsoring an event at the Bed & Breakfast.
12. The general hours of operation for the Private Club shall be 8:00 a.m. to 10:00 p.m. during the week; and 8:00 a.m. to 11:00 p.m. on the weekends to accommodate breakfast meetings, corporate events etc.
13. Regular meal service for the Private Club will be allowed 365 days per year and limited to 50 reservations per meal service. The bar is limited to 25 people.
14. Forty (40) current permanent parking spaces exist and an additional twelve (12) permanent parking spaces will be added for the Private Club.
15. All activity shall comply with the City Noise Ordinance at all times—applicable for the Anchorage CN District for the Private club.
16. No commercial deliveries will occur before 8:00 a.m. for the businesses.
17. Dumpster location will not be visible to neighbors or from the street for the businesses.
18. Sign(s) will comply with Anchorage Historic requirements for the Private Club.

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19. Present landscaping and adequate and reasonable landscape buffers between adjoining landowners will be provided and maintained as shown in the applicant's exhibit book under Tab 3, page 9 for the Private Club.
20. The Conditional Use Permit will require Neil and/or Ann Ramsey to maintain primary residency on the subject or adjacent property.
21. Special Events "Indoor only" activity (events in the Bed & Breakfast and the barn)—No restriction on the number of events if held completely indoors. No outside activity will occur other than parking. The maximum number of guests will be 125 between the hours of 8:00 a.m. to 12 midnight.
21. Special Events: "Minor" outdoor events (e.g. weddings, parties, and fundraisers) with or without tent(s) will allow a maximum amount of 150 people. The music will cease by 9:00 p.m. weeknights (Sunday-Thursday) and midnight on Friday and Saturday.
23. Special Events: "Super" outdoor events (e.g. weddings, parties and fundraisers) with or without tent(s) will allow a maximum of 350 people. The music will cease by 9:00 p.m. on weeknights (Sunday – Thursday) and midnight on Friday and Saturday.
24. A maximum of two "Minor" or "Super" outdoor events will be allowed in any given month.
25. A maximum of 12 total outdoor events ("Minor" or "Super") will be allowed per calendar year.
26. A maximum of 400 people will be allowed on the property at any given time, including staff, members and guests.
27. The event overflow parking will be located in the center of the property (apple orchard).
28. Tents, port-a-potties, tables, etc., may be erected within one business day before an event and must be taken down and removed within one

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- business day after the event. Structures must be set back at least 90 feet from the property line.
29. Total cleanup will be completed by 5:00 p.m. the following day. Trash and other debris will be entirely removed from the site within one business day after the event.
  30. The applicant/owner will hire an off-duty policeman for any "Super" event, and be on duty during the entirety of the event to facilitate ingress and egress, and to maintain safety.
  31. The Private Club must comply quickly with any and all police requests.

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

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Proffitt and Liggin.**

**ABSTAINING: No one.**

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**The meeting adjourned at 12:53 p.m.**

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**CHAIRPERSON**

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**SECRETARY**