

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

April 16, 2018

A meeting of the Louisville Metro Board of Zoning Adjustment was held on April 16, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

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

Members Absent:

Mike Allendorf, Chair
Kimberly Leanhart

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Steve Hendrix, Planning & Design Coordinator
Joel Dock, Planner II
Dante St. Germain, Planner I
Ross Allen, Planner I
Beth Jones, Planner II
Travis Fiechter, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

APRIL 2, 2018 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:03:01 On a motion by Member Howard, seconded by Member Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on April 2, 2018.

The vote was as follows:

Yes: Members Turner, Howard, Young, Buttorff, and Vice Chair Fishman
Absent: Member Leanhart, and Chair Allendorf

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BUSINESS SESSION

Case Number 18VARIANCE1027

Request: Variance to permit a structure to encroach into the required side yard setback
Project Name: 107 N. Jane Street
Location: 107 N. Jane Street
Owner: David Coyte
Applicant: David Coyte
Representative: David Coyte
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
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:

00:04:03 Beth Jones presented the case and showed the site plan (see staff report and recording for detailed presentation).

00:07:33 On a motion by Member Howard, seconded by Member Young, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested reduction of the required side yard will not adversely affect the public health, safety or welfare as it is the result of a replacement of a portion of an existing structure, and

WHEREAS, the Board further finds that the proposal will not alter the existing side yard and will not be out of character for the neighborhood, where narrow side yards are common, and

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WHEREAS, the Board further finds that the proposed construction will meet current building codes and requirements and will not cause a public hazard or nuisance through excessive noise, vibration, odor or light, and

WHEREAS, the Board further finds that the requested variance is not unreasonable as it will result in development of the property consistent with development in the vicinity, and

WHEREAS, the Board further finds that the proposed construction follows the footprint of an existing structure, and

WHEREAS, the Board further finds that the application of the regulation may create an unnecessary hardship in that the proposed construction follows the footprint of the existing structure, and

WHEREAS, the Board further finds that the existing residence was in place prior to the zoning regulation from which relief is being sought, 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 18VARIANCE1027 does hereby **APPROVE** Variance to permit a structure to encroach into the required side yard setback along the north property line (LDC Table 5.2.2), (**Requirement 3 ft., Request 1 ft., Variance 2 ft.**), based upon the Staff Report, the staff's presentation, and the applicant's justification.

The vote was as follows:

Yes: Members Turner, Howard, Young, Buttorff, Vice Chair Fishman
Absent: Member Leanhart, and Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1022

Request:	Variances to permit structures to encroach into the required setbacks
Project Name:	Hurstbourne Town Center
Location:	101 Whittington Parkway
Owner:	Viking Partners Hurstbourne
Applicant:	Viking Partners Hurstbourne
Representative:	Bardenwerper, Talbott & Roberts, PLLC
Jurisdiction:	City of Hurstbourne
Council District:	18 – Marilyn Parker
Case Manager:	Joel Dock, 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:

00:10:07 Joel Dock presented the case and showed a Powerpoint presentation. Mr. Dock responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223
Kevin Young, 503 Washburn Ave., Louisville, KY 40222

Summary of testimony of those in favor:

00:17:06 Nick Pregliasco spoke in favor of the request and showed a Powerpoint presentation. Mr. Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

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00:38:27 Kevin Young responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

00:40:00 Board Members' deliberation

00:44:16 On a motion by Member Howard, seconded by Member Young, the following resolution was adopted:

Variance from Land Development Code Section 5.2.4.C.3.a for buildings on Tract 1 to exceed the 15' SSY as shown on the development plan:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variances will not adversely affect public health, safety, or welfare as the proposed structures do not impact the safe movement of vehicles or pedestrians, have sufficient pedestrian and vehicular connectivity, and are oriented around a central focal point, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposed buildings are oriented around central public open space, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the structures are for residential use only, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the Town Center form district calls for structures to be oriented towards the public roadway or central focal point. The structures are internally oriented towards a central focal point and have a high level of connectivity, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the site is being wholly redeveloped from the

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previous uses which did not meet the standards established for the form district, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as the intent of the form district is being observed through the internal orientation of structures towards a focal point, 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 appropriate relief is being requested from the Board of zoning Adjustment, and

WHEREAS, the Board further finds that the variance will not adversely affect the public health, safety or welfare because these are aesthetic issues only, and

WHEREAS, the Board further finds that the variance will not alter the essential character of the general vicinity because, if anything, the general character of the area is one of building set back much more significantly than this from the public street, as all buildings in this area were originally located on their respective sites before this was designated by Cornerstone 2020 as a Town Center Form District. Moreover this overall plan brings these buildings much closer than any buildings are at present to Whittington Parkway. Among the apartment buildings, they are mostly at the 15 ft. line with only a few parts of the buildings that can't be brought all the way to the street because of the irregular shape of the overall property relative to building sizes and shapes, and

WHEREAS, the Board further finds that the variance will not cause a hazard or a nuisance to the public because again this is an aesthetic not hazard or nuisance issue, and

WHEREAS, the Board further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because of all that is said above include the fact that these buildings are bring brought much closer to the public right-of-way than buildings are currently situated, and

WHEREAS, the Board further finds that the variance arises from special circumstances, which do not generally apply to land in the general vicinity because, as noted above, the buildings presently located on these properties are located much further away from the public right-of-way, and

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WHEREAS, the Board further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the applicant wouldn't be able to fit most of its normal-shaped buildings on this overall irregularly shaped site, 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 regulation but rather are the result of the shape of the buildings relative to the shape of the overall site; and

Variance from Land Development Code Section 5.2.4.C.3.a for building on Tract 5 to exceed the 15' SSY as shown on the development plan:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variances will not adversely affect public health safety or welfare as the Parkway buffer is being maintained to protect the aesthetic value of the right-of-way, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the Parkway buffer is being maintained to protect the aesthetic value of the right-of-way, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the request does not impact the safe movement of pedestrians or vehicles, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the Parkway buffer is being maintained to protect the aesthetic value of the right-of-way, 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 as a designated parkway exists along the East property line and requires 30' buffer, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as the Parkway buffer is being maintained to protect the aesthetic value of the right-of-way, and

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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 appropriate relief is being requested from the Board of zoning Adjustment, and

WHEREAS, the Board further finds that the variance will not adversely affect the public health, safety or welfare because these are aesthetic issues only, and

WHEREAS, the Board further finds that the variance will not alter the essential character of the general vicinity because, if anything, the general character of the area is one of building set back much more significantly than this from the public street, as all buildings in this area were originally located on their respective sites before this was designated by Cornerstone 2020 as a Town Center Form District. Moreover this overall plan brings these buildings much closer than any buildings are at present to Whittington Parkway. Among the apartment buildings, they are mostly at the 15 ft. line with only a few parts of the buildings that can't be brought all the way to the street because of the irregular shape of the overall property relative to building sizes and shapes, and

WHEREAS, the Board further finds that the variance will not cause a hazard or a nuisance to the public because again this is an aesthetic not hazard or nuisance issue, and

WHEREAS, the Board further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because of all that is said above include the fact that these buildings are bring brought much closer to the public right-of-way than buildings are currently situated, and

WHEREAS, the Board further finds that the variance arises from special circumstances, which do not generally apply to land in the general vicinity because, as noted above, the buildings presently located on these properties are located much further away from the public right-of-way, and

WHEREAS, the Board further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the applicant wouldn't be able to fit most of its normal-shaped buildings on this overall irregularly shaped site, 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 regulation but

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rather are the result of the shape of the buildings relative to the shape of the overall site; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1022 does hereby **APPROVE** Variance (#1) from Land Development Code Section 5.2.4.C.3.a for buildings on Tract 1 to exceed the 15' SSY as shown on the development plan, and Variance (#3) from Land Development Code Section 5.2.4.C.3.a for building on Tract 5 to exceed the 15' SSY as shown on the development plan, based upon the Staff Report, the applicant's justification, the applicant's presentation, and the elevations.

The vote was as follows:

Yes: Members Turner, Howard, Young, Buttorff, and Vice Chair Fishman
Absent: Member Leanhart, and Chair Allendorf

00:46:19 On a motion by Member Howard, seconded by Member Buttorff, the following resolution was adopted:

Variance from Land Development Code Section 5.2.4.C.3.a for building on Tract 4 to exceed the 15' SSY as shown on the development plan:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect the public health, safety or welfare because these are aesthetic issues only, and

WHEREAS, the Board further finds that the variance will not alter the essential character of the general vicinity because, if anything, the general character of the area is one of building set back much more significantly than this from the public street, as all buildings in this area were originally located on their respective sites before this was designated by Cornerstone 2020 as a Town Center Form District. Moreover this overall plan brings these buildings much closer than any buildings are at present to Whittington Parkway. Among the apartment buildings, they are mostly at the 15 ft. line with only a few parts of the buildings that can't be brought all the way to the street because of the irregular shape of the overall property relative to building sizes and shapes, and

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WHEREAS, the Board further finds that the variance will not cause a hazard or a nuisance to the public because again this is an aesthetic not hazard or nuisance issue, and

WHEREAS, the Board further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because of all that is said above include the fact that these buildings are bring brought much closer to the public right-of-way than buildings are currently situated, and

WHEREAS, the Board further finds that the variance arises from special circumstances, which do not generally apply to land in the general vicinity because, as noted above, the buildings presently located on these properties are located much further away from the public right-of-way, and

WHEREAS, the Board further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the applicant wouldn't be able to fit most of its normal-shaped buildings on this overall irregularly shaped site, 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 regulation but rather are the result of the shape of the buildings relative to the shape of the overall site; and

Variance from Land Development Code Section 5.5.1.A.2 for building on Tract 6 to not be built to the corner and at the right-of-way lines as shown on the development plan:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect the public health, safety or welfare because these are aesthetic issues only, and

WHEREAS, the Board further finds that the variance will not alter the essential character of the general vicinity because, if anything, the general character of the area is one of building set back much more significantly than this from the public street, as all buildings in this area were originally located on their respective sites before this was designated by Cornerstone 2020 as a Town Center Form District. Moreover this overall plan brings these buildings much closer than any buildings are at present to the public right-of-way, in this instance Hurstbourne Parkway, and

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WHEREAS, the Board further finds that the variance will not cause a hazard or a nuisance to the public because again this is an aesthetic not hazard or nuisance issue, and

WHEREAS, the Board further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because, in addition to the foregoing, there is a conflict here between the requirement to set back in order to provide the Hurstbourne Parkway buffer and the requirement to build at the right-of-way line, and

WHEREAS, the Board further finds that the variance arises from special circumstances, which do not generally apply to land in the general vicinity because as noted above, the buildings presently located on these properties are located much further away from the public right-of-way, and

WHEREAS, the Board further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because one way or the other the applicant is going to violate some provision of the Land Development Code (LDC) with this building location where it is, being either the maximum right-of-way setback or the minimum parkway buffer provisions. In this instance, it is better to observe the parkway buffer requirement, 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 regulation but rather are a result of the conflict between two competing regulatory provisions and also the fact that this overall site (and also area) were developed prior to Cornerstone 2020's designation of this as a Town Center Form District; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1022 does hereby **APPROVE** Variance (2) from Land Development Code Section 5.2.4.C.3.a for building on Tract 4 to exceed the 15' SSY as shown on the development plan, and Variance (#4) from Land Development Code Section 5.5.1.A.2 for building on Tract 6 to not be built to the corner and at the right-of-way lines as shown on the development plan, based upon the applicant's justification, the elevations, and the applicant's presentation.

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The vote was as follows:

Yes: Members Turner, Howard, Young, Buttorff, and Vice Chair Fishman
Absent: Member Leanhart, and Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1026

Request: Variance to allow a fence to exceed the allowable maximum height in the front yard setback.
****Postponed to a date uncertain.***

Project Name: 12400 Old Henry Rd.
Location: 12400 Old Henry Rd.
Owner: Mr. and Mrs. Douglas Michael
Applicant: Mr. and Mrs. Douglas Michael
Representative: Glenn Price – Frost Brown and Todd LLC.
Jurisdiction: City of Middletown
Council District: 19 – Julie Denton
Case Manager: Ross Allen, Planner I

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

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

Agency Testimony:

00:49:47 Ross Allen stated the representative would like to postpone this case to a date uncertain (see staff report and recording for detailed presentation).

The following spoke on behalf of the applicant:

Glenn Price, 400 W. Market Street, Suite 3200, Louisville, KY 40202

Summary of testimony on behalf of the applicant:

00:50:30 Glenn Price stated this was a proposal for a tennis court at 12400 Old Henry Road. Mr. Price stated that after scheduling this for Public Hearing they found out that one of the neighbors was in opposition, so they would like to take it off the docket so they would have some time to figure out if they would need to relocate the tennis court or make some other accommodation (see recording for detailed presentation).

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CASE NUMBER 18VARIANCE1026

00:51:40 On a motion by Member Buttorff, seconded by Member Howard, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1026 does hereby **POSTPONE** this case to a date uncertain.

The vote was as follows:

Yes: Members Turner, Howard, Young, Buttorff, and Vice Chair Fishman
Absent: Member Leanhart, and Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1023

Request:	Variance to allow an addition to encroach into the required street side yard setback - WITHDRAWN
Project Name:	959 Thruston Avenue Addition
Location:	959 Thruston Avenue
Owner:	Geoffrey Riddle
Applicant:	Charlie Williams
Representative:	Charlie Williams
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
Case Manager:	Dante St. Germain, 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.

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

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PUBLIC HEARING

CASE NUMBER 18CUP1001

Request:	Conditional Use Permit to allow short term rental of a dwelling unit within a TNZD
Project Name:	Short Term Rental
Location:	531 W. St. Catherine Street
Owner:	Charlton and Melissa Yingling
Applicant:	Charlton and Melissa Yingling
Representative:	Charlton and Melissa Yingling
Jurisdiction:	Louisville Metro
Council District:	6 – David James
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:

00:53:21 Beth Jones stated the applicant has requested postponement on this case until April 30, 2018 (see staff report and recording for detailed presentation).

00:53:35 On a motion by Member Howard, seconded by Member Young, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1001 does hereby **CONTINUE** this case to the April 30, 2018 Board of Zoning Adjustment Public Hearing.

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PUBLIC HEARING

CASE NUMBER 18CUP1001

The vote was as follows:

Yes: Members Turner, Howard, Young, Buttorff, and Vice Chair Fishman
Absent: Member Leanhart, and Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 17CUP1114

Request:	Modification of Conditional Use Permit for Cemeteries and Mausoleums and variance to the required fence height
Project Name:	1600 and 1740 Newburg Road
Location:	1600 and 1740 Newburg Road
Owner:	Roman Catholic Bishop of Louisville
Applicant:	Catholic Cemeteries
Representative:	Bardenwerper Talbott & Roberts PLLC
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan, 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:

00:55:19 Beth Jones stated the applicant has requested postponement on this case until May 7, 2018 (see staff report and recording for detailed presentation).

00:55:29 On a motion by Member Young, seconded by Member Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1114 does hereby **CONTINUE** this case to the May 7, 2018 Board of Zoning Adjustment Public Hearing.

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PUBLIC HEARING

CASE NUMBER 17CUP1114

The vote was as follows:

Yes: Members Turner, Howard, Young, Buttorff, and Vice Chair Fishman
Absent: Member Leanhart, and Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1014

Request:	Variance to permit a structure to encroach into the required rear yard setback
Project Name:	1316 Helck Avenue
Location:	1316 Helck Avenue
Owner:	Maricela Solis
Applicant:	Maricela Solis
Representative:	Maricela Solis
Jurisdiction:	Louisville Metro
Council District:	21 – Vitalis Lanshima
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:

00:56:59 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:

Maricela Solis, 1316 Helck Ave., Louisville, KY 40213

Summary of testimony of those in favor:

01:03:56 Maricela Solis spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:06:15 **Board Members' deliberation**

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CASE NUMBER 18VARIANCE1014

01:06:44 On a motion by Member Young, seconded by Member Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested reduction of the required rear yard will not deprive adjacent property or the public right-of-way of light, air or privacy as the adjoining property to the rear is largely undeveloped and the proposal would maintain a 22 ft. side yard to the nearest side adjoining neighbor, and

WHEREAS, the Board further finds that several homes in the vicinity have garages or other outbuildings placed near or on the rear property line. There will be no negative effects on the largely undeveloped adjoining property to the rear of the site, and

WHEREAS, the Board further finds that the proposed construction will meet current building codes and requirements and will not cause a public hazard or nuisance through excessive noise, vibration, odor or light, and

WHEREAS, the Board further finds that the request is not unreasonable based on the location of the residence on the site, the minimal impact on neighboring properties and the proposed reuse of an existing foundation, and

WHEREAS, the Board further finds that the variance request is based on the placement of the existing residence on the site, and

WHEREAS, the Board further finds that the existing residence was in place prior to the zoning regulation from which relief is being sought, 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 18VARIANCE1014 does hereby **APPROVE** Variance to permit encroachment into the required 25 ft. rear setback (LDC Table 5.3.1), (**Requirement 25 ft., Request 2 ft., Variance 23 ft.**), based upon the applicant's justification statement, the testimony, the staff findings, and the Standard of Review and Staff Analysis.

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CASE NUMBER 18VARIANCE1014

The vote was as follows:

Yes: Members Turner, Howard, Young, Buttorff, and Vice Chair Fishman
Absent: Member Leanhart, and Chair Allendorf

01:07:55 Meeting was recessed.

01:08:15 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1018

Request:	Variance to allow a driveway to exceed 20 feet in width
Project Name:	434 Oxford Place Driveway
Location:	434 Oxford Place
Owner:	Kristin & Joseph Smith
Applicant:	Joseph Smith
Representative:	Joseph Smith
Jurisdiction:	City of St. Matthews
Council District:	9 – Bill Hollander
Case Manager:	Dante St. Germain, 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:

01:08:25 Dante St. Germain presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Joseph Smith, 434 Oxford Place, Louisville, KY 40207

Summary of testimony of those in favor:

01:14:49 Joseph Smith 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 18VARIANCE1018

01:20:19 Board Members' deliberation

01:20:54 On a motion by Member Turner, seconded by Member Buttorff, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the driveway is proposed to be on private property and will lead to a detached garage, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the driveway will be 20 feet wide at the right-of-way, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the driveway will be the standard 20 feet in width at the right-of-way, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the driveway is proposed to be the same width as the garage to which it leads, a garage which is permitted by the zoning regulations, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the lot is regular in shape and of similar size to neighboring lots, 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 have a driveway that is not as wide as the permitted garage, leading to difficulty in parking cars within the garage, 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, and

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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 18VARIANCE1018 does hereby **APPROVE** Variance from City of St. Matthews Development Code Section 9.1.4 to allow a driveway to be used for off-street parking to exceed 20 feet in width (**Requirement 20 ft., Request 34 ft., Variance 14 ft.**), based upon the applicant's justification statement, the testimony heard today, and the Standard of Review and Staff Analysis.

The vote was as follows:

Yes: Members Turner, Howard, Young, Buttorff, and Vice Chair Fishman
Absent: Member Leanhart, and Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1015

Request:	Variance to allow a fence to exceed the allowable height in the street side yard setback
Project Name:	3522 Grandview Avenue Fence
Location:	3522 Grandview Avenue
Owner:	Philip Nee & Audrey Woods
Applicant:	Philip Nee
Representative:	Philip Nee
Jurisdiction:	City of St. Matthews
Council District:	9 – Bill Hollander
Case Manager:	Dante St. Germain, 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:

01:23:17 Dante St. Germain presented the case and showed a Powerpoint presentation. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Philip Nee, 3522 Grandview Ave., Louisville, KY 40207

Summary of testimony of those in favor:

01:28:07 Philip Nee spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:28:59 Ms. St. Germain responded to a question from Member Howard (see recording for detailed presentation).

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CASE NUMBER 18VARIANCE1015

01:29:27 Mr. Nee continued his testimony and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

01:35:08 Board Members' deliberation

01:39:38 On a motion by Member Howard, seconded by Member Young, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the portion of the fence on the applicant's property does not create a sight line or safety issue at this time, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the privacy fence replaced a previously-existing chain link fence at the same location, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the portion of the fence on the applicant's property does not create a hazard, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the City of St. Matthews is aware of the fence and its location and only requests a condition of approval on the variance, if it is approved, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the lot is regular in shape and of similar size to neighboring lots, 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

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create an unnecessary hardship on the applicant as the fence in the street side yard is requested in order to create privacy in the rear yard of the property, and

WHEREAS, the Board further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the fence was constructed after the zoning regulations were adopted by the City of St. Matthews, 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 18VARIANCE1015 does hereby **APPROVE** Variance from City of St. Matthews Development Code Section 9.1.B.1.a to allow a fence to exceed 4 feet in height in the street side yard setback (**Requirement 4 ft., Request 6 ft., Variance 2 ft.**), based upon the Staff Report, the testimony heard today, the applicant's justification, the site plan, and **SUBJECT** to the following Condition of Approval:

Condition of Approval:

1. Should the City of St. Matthews ever need to do work or install facilities within this portion of the right-of-way necessitating the fence be removed, the property owner shall remove the fence from within the right-of-way.

The vote was as follows:

Yes: Members Turner, Howard, Young, Buttorff, and Vice Chair Fishman
Absent: Member Leanhart, and Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1025

Request:	Variance to allow a structure to encroach into the required side yard setback
Project Name:	941 E Oak Street Addition
Location:	941 E Oak Street
Owner:	Kenneth Frizzle
Applicant:	Jason Weiss – Halcyon Ventures LLC
Representative:	Jason Weiss
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Dante St. Germain, 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:

01:42:45 Dante St. Germain presented the case and showed a Powerpoint presentation. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jason Weiss, 4 Lincoln Run Road, Louisville, KY 40245

Summary of testimony of those in favor:

01:46:14 Jason Weiss spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

01:49:22 Board Members' deliberation

01:50:30 Public Hearing was reopened to allow Mr. Weiss to answer questions from the Board Members (see recording for detailed presentation).

01:51:16 Board Members' deliberation

01:51:56 On a motion by Member Young, seconded by Member Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as all construction will have to be performed in compliance with building codes, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as encroachments into side yard setbacks are common in Germantown, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public and neighboring properties as the separation between the new structure and the existing neighboring structure is not proposed to be changed from the current condition, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the encroachment follows an existing encroachment into the side yard setback by the existing structure, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the lot is regular in shape and of similar size to neighboring lots, and such encroachments are common in the vicinity, 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

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create an unnecessary hardship on the applicant as the applicant would be prevented from adding a second bedroom onto an existing small shotgun-style house, 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, 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 18VARIANCE1025 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 1.25 ft., Variance 1.75 ft.**), based upon the testimony heard today, the applicant's justification statement, and the Standard of Review and Staff Analysis.

The vote was as follows:


Yes: Members Turner, Howard, Young, Buttorff, and Vice Chair Fishman
Absent: Member Leanhart, and Chair Allendorf

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ADJOURNMENT

01:53:31 Prior to adjournment, Joe Haberman advised the Board Members that the APA Kentucky Conference is coming up on May 10th and 11th in Berea, Kentucky. Mr. Haberman asked the Board Members to let him know if they are interested in attending and we might be able to reimburse for their costs. Mr. Haberman stated it would pretty much cover all of the hours they would need per Kentucky Revised Statutes. Mr. Haberman stated he would forward the program to the Board Members, as well as their hours.

The meeting adjourned at approximately 3:11 p.m.


Chair *vice chair*


Secretary