

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

August 4, 2014

A meeting of the Louisville Metro Board of Zoning Adjustment was held at 8:30.A.M. on Monday, August 4, 2014, 514 West Liberty Street, Old Jail Building, Old Jail Court Room, Louisville, Kentucky.

Members present were:

David Proffitt, Chairperson
Rosalind Fishman, Secretary
Frederick Liggin
Dean Tharp
Paul Bergmann

Members absent:

Betty Jarboe
Mike Allendorf, Vice Chairperson

Staff members present were:

Emily Liu, Director, Planning & Design Services
Jonathan Baker, Legal Counsel
Jessica Wethington, Planning Information Specialist
Steve Hendrix, Planning Supervisor
Joe Reverman, Planning Supervisor
Sherie Long, Landscape Architect
Jon Crumble, Planner II
Latondra Yates, Planner II
Beth Stevenson, Management Assistant

The following cases were heard:

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APPROVAL OF MINTUES:

1.) Approval of the minutes of the Special Meeting held on July 15, 2014.

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

RESOLVED, that the Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting held on July 15, 2014.

YES: Members Tharp, Proffitt, Liggin, Fishman and Bergmann.

NO: No one.

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members
Allendorf and Jarboe.**

ABSTAINING: No one.

2.) Approval of the minutes of the meeting held on July 21, 2014.

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

RESOLVED, that the Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting held on July 21, 2014.

YES: Members Tharp, Proffitt, Liggin, Fishman and Bergmann.

NO: No one.

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members
Allendorf and Jarboe.**

ABSTAINING: No one.

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BUSINESS SESSION:

CASE NO. 14CUP1022

Request: Modified Conditional Use Permit to allow an existing water tank to be replaced.

Project Name: Water Storage Tank Replacement

Location: 1200 Story Avenue

Owner: JBS USA, LLC
1700 Promontory Circle
Greeley, CO 80634

Applicant: JBS USA, LLC
John Cliff
1200 Story Avenue
Louisville, KY 40206

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

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 4—David Tandy

Staff Case Manager: Steve Hendrix, Planning Supervisor

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and 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, Steve Hendrix discussed the case summary, standard of review and staff analysis from the staff report. Mr. Hendrix said the Board could either approve or deny the request or schedule a public hearing.

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The following spoke in favor of this request:

Glenn Price, Attorney.

Summary of testimony of those in favor:

Glenn Price, Attorney for the applicant, said replacing the water tank will save MSD money and his client. He said it won't increase plant operations; and a public hearing is not necessary.

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:

There was discussion about conducting a public hearing.

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 August 4, 2014 public hearing proceedings.

Modified Conditional Use Permit to allow an existing water tank to be replaced:

On a motion by Member Fishman, seconded by Member Tharp, 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 evidence, testimony that the applicant is requesting a Modified Conditional Use Permit to allow an existing hot water silo

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to be replaced to hold approximately 245,000 gallons from 185,000 gallons—a 60,000 gallon increase; and the old tank is 39 feet tall and the new tank will be 44 feet tall; and

WHEREAS, the Board finds that the proposal will enable the applicant to follow the Federal Clean Water Act and will significantly reduce the volume of overflows into the Ohio River and Beargrass Creek during periods of heavy rainfall; and because the proposal will increase the plant's capacity to retain approximately 60,000 gallons of water per day that would normally be discharged to MSD's combined sewer system, thereby benefitting the community, environment and MSD ratepayers;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Modified Conditional Use Permit to allow the replacement of an existing hot water silo to hold approximately 245,000 gallons and be 44 feet tall on the site **SUBJECT** to the previously approved Conditions of Approval.

YES: Members Tharp, Proffitt, Fishman and Bergmann.

NO: No one.

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members
Allendorf and Jarboe.**

ABSTAINING: Member Liggin.

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AUGUST 4, 2014

NEW BUSINESS:

CASE NO. 14VARIANCE1059

Request: Variances from the Land Development Code to allow an existing structure to encroach into the required side yard.

Project Name: Existing Wooden Deck

Location: 221 Notting Hill Blvd.

Owners: Brad & Carey Mohr
221 Notting Hill Blvd.
Louisville, KY 40245

Applicants: Same as owners

Representative: Sabak Wilson & Lingo
Dennis L. Kraus
608 S. Third Street
Louisville, KY 40202

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 19—Jerry Miller

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 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, Sherie Long discussed the case summary, standard of review and staff analysis from the staff report. She said both property owners have agreed to adjust the property line, but leaves no room for the setback.

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The following spoke in favor of this request:

Dennis Kraus.

Brad Mohr.

Summary of testimony of those in favor:

Dennis Kraus, the applicant's representative, said both property owners have been working together to resolve the property line issue.

Brad Mohr, the applicant said he purchased his home 5 years ago and didn't know about the encroachment, and that he and his neighbor just want to move on.

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.

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 August 4, 2014 public hearing proceedings.

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

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CASE NO. 14VARIANCE1059

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 5.3.1, Table 5.3.1 of the Land Development Code to allow an existing wooden deck to be 0.58 feet to the gutter and 0.91 feet to the deck; and

WHEREAS, the Board finds that the requested variance will not adversely affect the public health safety or welfare because the existing wooden deck and roof are internal to the development; and because the existing deck and roof do not interfere with light or ventilation of the nearest adjacent house, nor are there any obstruction of any views; and because two property owners affected by this encroachment have agreed to remedy the mistake by adjusting the common side yard property line to eliminate the encroachment; and

WHEREAS, the Board finds that the variance will not alter the essential character of the general vicinity because the existing deck and roof are constructed of similar materials being used on the surround structures and is located more than 14 feet from the adjacent house; and because this spacing between the house and the deck is similar to the surrounding adjacent properties; and

WHEREAS, the Board finds that the variance will not cause a hazard or nuisance to the public because the common side yard property line is being amended to correct the encroachment; and because the encroachment is minor and only affects the area of the existing deck and roof; and because the remaining side yard setback is being honored; and

WHEREAS, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the encroachment is being remedied by adjusting the side yard property line; and because this adjustment is only affecting the common boundary between Lots 44 and 48; and because the encroachment is minor and only affects the area of the existing deck and roof; and because the remaining side yard setback is being honored; 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 or create an unnecessary hardship because it would require the owner of Lot 44 to remove

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the portion of the deck and roof which are encroaching into the 5 foot side yard causing additional expense and unnecessary hardship on the owner; and

WHEREAS, the Board finds that the circumstances are not the result of actions of the applicant because the encroachment existed when the owner purchased the house 5 years ago and wasn't aware that the deck and roof encroached into the required west side yard;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow an existing gutter to be 0.58 feet into the west property line and 0.91 feet to the deck; and

YES: Members Tharp, Proffitt, Liggin, Fishman and Bergmann.

NO: No one.

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members
Allendorf and Jarboe.**

ABSTAINING: No one.

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NEW BUSINESS:

CASE NO. 14VARIANCE1066

Request: Variance from the Land Development Code to allow a proposed structure to encroach into the required side yard.

Project Name: None

Location: 1711 Payne Street

Owners: Hart & Miller Investments, LLC
Sherri Hart, Manager & David Hart
436 Shakes Run Road
Louisville, KY 40067

Applicants: Same as owners

Representatives: Borders & Borders
Harry Borders
920 Dupont Road
Louisville, KY 40207

Don Underwood Design
Don Underwood
3502 Frankfort Avenue
Louisville, KY 40207

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 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, Sherie' Long discussed the case summary, standard of review and staff analysis from the staff report. She said a 1 ½ story wood frame shotgun style home is being proposed on a narrow 25 foot vacant infill lot. She said Clifton Architectural Review Committee reviewed and approved the plan with conditions of approval. The Board had questions about the existing fences.

The following spoke in favor of this request:

David Hart.

Summary of testimony of those in favor:

David Hart, the owner, said he will be installing a sidewalk for access to the backyard; and the existing fence will be replaced with new fence. Mr. Hart said fire rated walls will be included; and the side yard maintained.

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.

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 August 4, 2014 public hearing proceedings.

After the public hearing in open business session, on a motion by Member Fishman, seconded by Member Liggin, 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 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 5.2.2, Table 5.2.2 of the Land Development Code to allow a proposed structure to encroach into the required side yard; and

WHEREAS, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the proposed structure will have a fire rated wall allowing it to be located one foot from the property line; and because the location of the new structure is similar to the existing location of the house which was removed in 2013; and

WHEREAS, the Board finds that the variance will not alter the essential character of the general vicinity because the proposed structure will be constructed as approved by the Clifton Architectural Review Committee; and because the proposed materials are compatible with the surrounding existing structures; and because the setback will be the same as the adjacent structure to the east, completing the block face; and

WHEREAS, the Board finds that the variance will not cause a hazard or nuisance to the public because the new house will be located in the approximate location of the former house removed in 2013; and because the front yard setback of the structure will be the same as the structure to the east; and because the wall adjacent to the side property line will be fire rated for safety; and because a vacant lot will be rebuilt with a single family house which is revitalization of the neighborhood; and

WHEREAS, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the existing lot is very narrow, only 25 feet wide, which creates a challenge to build a house that is sufficient in size; and because allowing the new house to encroach into the side yard setback allows for a more desirable house width; plus the previous existing house was located similarly on the lot; and

WHEREAS, the Board finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the

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same zone because the lot is very narrow, only 25 feet wide, which has created a situation where it is necessary to encroach into the side yard in order to get a house on the lot that is of sufficient width, 20 feet; 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 or create an unnecessary hardship because it would require the owner to reduce the width of the new structure to 18 feet wide;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow a proposed house to be 1 foot from the west side property line.

YES: Members Tharp, Proffitt, Liggin, Fishman and Bergmann.

NO: No one.

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members
Allendorf and Jarboe.**

ABSTAINING: No one.

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NEW BUSINESS:

CASE NO. 14VARIANCE1065

Request: Variance from the Land Development Code to allow a proposed building addition not to be located at the corner with landscaping and design waivers.

Project Name: Spindletop Draperies

Location: 939 East Jefferson Street

Owner: BEC Spindletop, LLC
Pat Payne, President
2506 Belknap Beach Road
Louisville, KY 40059

Applicant: The Mengel Company, Inc.
Art Mengel
9549 US Hwy. 42
Louisville, KY 40059

Representative: Payne Architecture
Ted Payne
4050 Westport Road, Suite 206
Louisville, KY 40207

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 4—David Tandy

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 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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CASE NO. 14VARIANCE1065

Agency Testimony:

Staff Case Manager, Sherie' Long discussed the case summary, standard of review and staff analysis from the staff report. The applicant is proposing to build a 3,999 sq. ft. addition onto the existing building. The applicant will be incorporating tree wells with trees, other landscaping and replace the sidewalk along South Wenzel. The Board had questions regarding the size of delivery trucks, signage etc.

The following spoke in favor of this request:

Art Mengel.

Summary of testimony of those in favor:

Art Mengel, the applicant's representative, agreed to use the historic sidewalk mix as requested by Member Fishman. He said the delivery trucks are small with the exception of a semi-truck periodically which will park along Wenzel. Mr. Mengel said he will reuse the signage that exists on the property. He concluded that most of the sales are done off site.

The following spoke neither for nor against the request:

Tina Long, 923 E. Jefferson Street, Louisville, KY 40206.

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

Tina Long said she owns property along Jefferson and Wenzel and asked about parking. Chair Proffitt said they have 31 parking spaces total. Ms. Long said most of her other questions were answered; and is glad most of the sales are handled off site.

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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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 August 4, 2014 public hearing proceedings.

Variance to allow a proposed building addition not to be located at the corner:

After the public hearing in open business session, on a motion by Member Liggin, 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 including the applicant's justification, testimony and discussion at the public hearing that the applicant is requesting a variance from Section 5.5.51.A.2 of the Land Development Code to allow a proposed addition not to be located at the corner; and

WHEREAS, the Board finds that the requested variance will not adversely affect the public health, safety or welfare since the proposed location of the structure will not be located in the sight triangle or create a sight visibility problem; and because the addition will locate the manufacturing and delivery function of the business along the alley away from the vehicle and pedestrian traffic from the main entrance off of East Jefferson Street; and

WHEREAS, the Board finds that the variance will not alter the essential character of the general vicinity because the applicant's proposal is compatible with the surrounding development because the addition will be constructed of similar materials that exist in the area; and because the function of the addition is also similar to the surrounding uses; and because the loading area will be screened from street view and additional trees will be added which will improve the area and mitigate any negative impact; and

WHEREAS, the Board finds that the variance will not cause a hazard or nuisance to the public because the manufacturing and delivery functions will be at the rear of the property adjacent to the alley, allowing the utilization of the primary

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commercial frontage along East Jefferson Street to be used for showroom and customer service functions; and

WHEREAS, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the applicant is providing the required 5' Landscape Buffer and plantings along the loading area frontage; providing an additional 4 tree wells along the South Wenzel frontage which will be planted by the Tree Commission or the Louisville Metro Urban Forester; and providing 3 trees along the East Jefferson Street frontage; and because the proposed location of the addition will allow the storefront display area and customer service to be located at the primary frontage along East Jefferson Street; 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 because the subject property is on a corner lot which requires the building to be built to the corner, however, the proposed function of the addition (manufacturing and delivery) should be located in the rear as proposed; and

WHEREAS, the Board finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the applicant would lose 7 to 9 parking spaces, lose the current display and sales visibility from East Jefferson Street and lose the additional delivery area;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow a proposed building addition not to be located at the corner.

YES: Members Tharp, Proffitt, Liggin, Fishman and Bergmann.

NO: No one.

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members
Allendorf and Jarboe.**

ABSTAINING: No one.

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Waiver to allow loading areas on the primary façade:

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

WHEREAS, the Board finds from the file of this case, the staff report; the site plan; the PowerPoint presentations; the evidence including the applicant's justification, testimony and discussion at the public hearing that the applicant is requesting a waiver of the Land Development Code, 5.5.1.A4(b) to allow loading areas on the primary façade; and

WHEREAS, the Board finds that the waiver will not adversely affect adjacent property owners because the proposed location of the overhead door is similar to other building in the area; and because the overhead door will be screened from the street view and the residential properties to the south by tree and shrub plantings; and

WHEREAS, the Board finds that the waiver will not violate specific guidelines of Cornerstone 2020 because the proposal meets guideline A.24 given that the shrub and tree planting will lessen the visual impact of the loading area adjacent to the street and nearby residential properties; and

WHEREAS, the Board finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant and allows the loading area and storage to be located at the rear of the property which allows the retail display and sales area to be located along the primary frontage of East Jefferson Street; plus, the delivery function is separate from the retail and customer parking area and located where it is least visually apparent to the public; and

WHEREAS, the Board finds that the applicant is providing a net benefit by providing additional tree wells along South Wenzel which will be planted with trees by either the Louisville Metro Urban Forester or the Tree Commission; and because these additional trees, along with the required trees and shrubs adjacent to the loading area will reduce the impact of the loading area from the street and nearby residential properties;

RESOLVED, that the Board of Zoning Adjustment does hereby **GRANT** the waiver to allow loading areas on the primary façade.

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YES: Members Tharp, Proffitt, Liggin, Fishman and Bergmann.

NO: No one.

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members
Allendorf and Jarboe.**

ABSTAINING: No one.

Waiver to eliminate the 5' Landscape Buffer Area (LBA) along the alley frontage and eliminate a portion (15') of the 5' LBA along South Wenzel Street:

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

WHEREAS, the Board finds from the file of this case, the staff report; the site plan; the PowerPoint presentations; the evidence including the applicant's justification, testimony and discussion at the public hearing that the applicant is requesting a waiver of the Land Development Code 10.2.10 and 10.2.11 to eliminate the 5' LBA along the alley frontage and eliminate a portion (15') of the 5' LBA along South Wenzel Street; and

WHEREAS, the Board finds that the requested waiver will not adversely affect adjacent property owners because there is currently no screening of any existing storage areas on other properties along Nanny Goat Strut; and because the storage area is to be located in the rear which is the least visually apparent to the public and the farthest away from the residential properties located across East Jefferson Street; and

WHEREAS, the Board finds that the waiver will not violate specific guidelines of Cornerstone 2020 because other landscaping is being provided on site to mitigate the impact of the waiver; and

WHEREAS, the Board finds that the extent of the waiver is the minimum necessary to afford relief to the applicant and allows storage area to be located at the rear of the property which allows the storage area to be located in the least visually apparent location to the public and farthest away from the residential properties; and

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WHEREAS, the Board finds that the applicant is providing a net benefit by providing additional tree wells along South Wenzel in addition to which will be planted with trees by either the Louisville Metro Urban Forester or the Tree Commission; and because these additional trees along with the required trees and shrubs being provided by the applicant, will reduce the impact of storage area and loading area from the street and for the nearby residential properties;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** a waiver to eliminate the 5' LBA along the alley and a small portion (15') of the 5' LBA along South Wenzel Street.

YES: Members Tharp, Proffitt, Liggin, Fishman and Bergmann.

NO: No one.

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members
Allendorf and Jarboe.**

ABSTAINING: No one.

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AUGUST 4, 2014

NEW BUSINESS:

CASE NO. 14VARIANCE1062

Request: Variance to allow a proposed deck to encroach into the required side yard.

Project Name: None

Location: 632 N. Birchwood Avenue

Owner: Kevin Downs
632 N. Birchwood Avenue
Louisville, KY 40206

Applicant: Same as owner

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 9—Tina Ward-Pugh

Staff Case Manager: Latondra Yates, 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. 5th Street).

Agency Testimony:

Staff Case Manager, Latondra Yates discussed the case summary, standard of review and staff analysis from the staff report. Ms. Yates said Councilwoman Tina Ward-Pugh had no concerns with the request. Chair Proffitt questioned why the applicant couldn't put the stairs elsewhere.

The following spoke in favor of this request:

Kevin Downs.

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Summary of testimony of those in favor:

Kevin Downs, the owner, said the placement of the stairs off the deck is the best place for him, since he needs the space for his trailer for yard work. He said his neighbor 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 Bergmann said he doesn't feel it's a hardship on the applicant but a preference. Member Fishman said his neighbor is not opposed.

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 August 4, 2014 public hearing proceedings.

Variance to allow a deck to encroach in the required 5 ft. side yard setback:

After the public hearing in open business session, on a motion by Member Liggin, 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 5.4.1 of the Land Development Code (LDC) to allow a deck to encroach into the required 5 ft. side yard; and

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WHEREAS, the Board finds that the variance will not adversely affect the public health, safety or welfare because the deck appears to be situated in a manner that will not impede sight distance or negatively affect the view of the neighboring property; and

WHEREAS, the Board finds that the variance will not alter the essential character of the general vicinity because there appear to be other similar decks in the neighborhood; and

WHEREAS, the Board finds that the variance will not cause a hazard or nuisance to the public because the proposed deck appears to be situated in a manner that will not impede sight distance or negatively affect the view of neighboring properties; and

WHEREAS, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the majority of the setback will be observed; 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 or create an unnecessary hardship on the applicant because the way the house is situated;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow a proposed deck to be 3.6 feet from the side property line.

YES: Members Tharp, Liggin and Bergmann.

NO: Member Proffitt and Bergmann.

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members
Allendorf and Jarboe.**

ABSTAINING: No one.

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NEW BUSINESS:

CASE NO. 14VARIANCE1061

Request: Variances and waivers to allow the location of existing structures.

Project Name: None

Location: 1646 Cowling Avenue

Owner: Linda Block-Coalter
1646 Cowling Avenue
Louisville, KY 40205

Applicant: Same as owner

Attorney: Wyatt, Tarrant & Combs, LLP
Deborah Bilitski, Esq.
500 West Jefferson Street, Ste. 2700
Louisville, KY 40202

Representative: Schroll Land Surveying, LLC
Bill Schroll
5450 Southview Drive
Louisville, KY 40214

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 8—Tom Owen

Staff Case Manager: Latondra Yates, 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. 5th Street).

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Agency Testimony:

Staff Case Manager, Latondra Yates, said the applicant is requesting deferral to a date uncertain.

The following spoke in favor of this request:

Deborah Bilitski, Attorney.

Summary of testimony of those in favor:

Deborah Bilitski, Attorney for the applicant, said they are requesting deferral of the public hearing and will reschedule at a later date.

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 August 4, 2014 public hearing proceedings.

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

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **DEFER** Case No. 14VARIANCE1061 indefinitely.

YES: Members Tharp, Proffitt, Liggin, Fishman and Bergmann.

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Allendorf and Jarboe.

ABSTAINING: No one.

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NEW BUSINESS:

CASE NO. 14VARIANCE1063

Request: Variance from the Land Development Code to allow a reduction of the required private yard area.

Project Name: Sunroom addition to residence

Location: 1901 Woodbourne Avenue

Owner: Rickey & Catherine Young
1901 Woodbourne Avenue
Louisville, KY 40205

Applicant: Same as owner

Representative: Window World
Mike Swayze
2200 Brennen Business Court
Louisville, KY 40299

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 8—Tom Owen

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. 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 is proposing to add a sunroom to replace the existing porch at the rear of the house. The

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private yard area has been reduced under a previous case (B-167-05). The sunroom will be slightly larger than the existing porch.

The following spoke in favor of this request:

No one was present.

Summary of testimony of those in favor:

No one was present.

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 was determining if they should continue this case since the applicant was not present to answer questions. The Board decided to consider the request since it's basically a renovation and no visual nuisance.

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 August 4, 2014 public hearing proceedings.

After the public hearing in open business session, on a motion by Member Fishman, seconded by Member Liggin, 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

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PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a variance from the Land Development Code to allow a reduction in the required private yard to replace an existing porch with a slightly larger sunroom; and

WHEREAS, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the sunroom will be replacing an existing porch and be in the same area; and

WHEREAS, the Board finds that the variance will not alter the essential character of the general vicinity because the additional square footage will not be noticeable from Wibben Avenue; and

WHEREAS, the Board finds that the variance will not cause a hazard or nuisance to the public because the sunroom will be at least 10 feet from the north property line and adjacent residence; and

WHEREAS, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the conditions on site have existed since 2005; 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 because of the size, shape and location of the lot on a corner;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow a reduction in the required private yard area to 121 feet.

YES: Members Tharp, Proffitt, Liggin, Fishman and Bergmann.

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Allendorf and Jarboe.

ABSTAINING: No one.

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NEW BUSINESS:

CASE NO. 14CUP1009

Request: Conditional Use Permit to allow outdoor alcohol sales and consumption and indoor entertainment in a C-1 zoning district.

Project Name: Craft House

Location: 2636 Frankfort Avenue

Owner: Brewery Properties, LLC
Pat Hagan
2634 Frankfort Avenue
Louisville, KY 40206

Applicant: Same as owner

Representative: Architectural Artisans
Carter Scott/Jeff Rawlins
748 East Market Street
Louisville, KY 40202

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 9—Tina Ward-Pugh

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. 5th Street).

Agency Testimony:

Staff case manager, Jon Crumbie discussed the case summary, standard of review and staff analysis from the staff report. The applicants would like to open

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a new neighborhood restaurant and pub serving local beer and food. The outdoor patio will serve 54 patrons with approximately 800 square feet of space. Mr. Crumbie said the applicant agreed to close the patio at 10:00 p.m., Sunday through Thursday and midnight on Friday and Saturday; but that the Board should verify this with the applicant.

The following spoke in favor of this request:

Carter Scott, Architectural Artisans.

Beau Kerley, 2636 Frankfort Avenue, Louisville, KY 40206.

Brad Culver, 1612 Edenside Drive, Louisville, KY 40206.

Summary of testimony of those in favor:

Carter Scott, the applicant's architect, said the outdoor music will be at a low level with small speakers and agreed to a condition of approval. He also discussed the access gate to the patio delivery area located in the rear.

Beau Kerley, the applicant's contractor, discussed the neighborhood meeting and said most were in support. He said they agreed to install an 8 ft. tall horizontal fence for a noise buffer; that the outdoor patio would close at 10:00 p.m. (patrons could finish eating until 11:00 p.m.) Sunday through Thursday; and midnight on Friday and Saturday.

The Board discussed the hours of operation at great length, stating that they needed to know the exact time the patio would close for enforcement purposes.

Brad Culver, one of the owners, said they would like to allow patrons to finish eating by 11:00 p.m. Sunday through Thursday; and 1:00 a.m. on Friday and Saturday. He said this is what was explained at the neighborhood meeting.

Chair Proffitt inquired about the indoor entertainment. Mr. Culver said they would have indoor bands. He said they would like security lighting in the rear since there have been burglaries.

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:

No one.

Summary of testimony of those in opposition:

No one.

Deliberation:

Member Tharp had concerns about the patio becoming a smoking and drinking area after it's closed. Chair Proffitt read additional conditions of approval into the record.

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 August 4, 2014 public hearing proceedings.

Conditional Use Permit to allow outdoor alcohol sales and consumption and indoor entertainment in a C-1 zoning district:

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 Conditional Use Permit to allow outdoor alcohol sales and consumption and indoor entertainment in a C-1 zoning district; and

WHEREAS, the Board finds that the proposal meets all applicable policies of the Comprehensive Plan because screening will be provided around the outdoor area; and because the proposal includes buildings that have little or no setback and are oriented toward the street, Item B.7 of the Comprehensive Plan; and because new development respects the predominate rhythm, massing and

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spacing of existing buildings; and because the proposal includes on-street parking and parking at the rear of the structure; and includes wide sidewalks; and

WHEREAS, the Board finds that the proposal is compatible with surrounding land uses and the general character of the area because the subject site is located in an area that has a mix of businesses and is a focal point for several surrounding neighborhoods; and

WHEREAS, the Board finds that the 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 it has been reviewed and preliminarily approved by Public Works, MSD and the Louisville Fire District #4; and

WHEREAS, the Board finds that the proposal complies with specific standards to obtain the Conditional Use Permit because the outdoor patio for the sale and consumption of food and alcohol will have designated boundaries (Listed Requirement A); and because the sale and consumption of food and alcohol will cease at 11:00 p.m. Sunday through Thursday and midnight on Friday and Saturday (Listed Requirement F); and

WHEREAS, the Board finds that Listed Requirement D is met since an 8 ft. tall horizontal fence for a noise buffer between the property is proposed; and

WHEREAS, the Board finds that staff has had conversations with ABC personnel and a liquor license cannot be obtained until the project has been completed and inspected; and

WHEREAS, the Board finds that the entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99);

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow outdoor dining, alcohol sales and consumption and indoor entertainment on property located at 2626 Frankfort Avenue on the site **SUBJECT** to the following Conditions of Approval:

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1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be “exercised” as described in KRS 100.237 within two years of the Board’s vote on the case. If the Conditional Use Permit is not so exercised, the site shall not be used for outdoor alcohol sales and consumption and indoor entertainment.
3. Outdoor dining, alcohol sales and consumption on the patio shall close at 11:00 p.m. Sunday through Thursday; and midnight Friday and Saturday. No smoking or drinking will be allowed on the patio after these hours.
4. The rear gate shall be used for emergency egress only with appropriate hardware to limit its use for emergency egress.
5. Outdoor music on the patio shall be limited to low level, ground mounted speakers as “white noise”.
6. Alcohol delivery and trash removal shall be permitted through the rear alley between the hours of 9:00 a.m. to 12:00 p.m.

YES: Members Tharp, Proffitt, Liggin, Fishman and Bergmann.

NO: No one.

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members
Allendorf and Jarboe.**

ABSTAINING: No one.

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The meeting adjourned at 11:47 a.m.

CHAIRPERSON

SECRETARY