

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

April 5, 2021

A meeting of the Louisville Metro Board of Zoning Adjustment was held on April 5, 2021 at 1:00 p.m. online via Cisco Webex Video Conferencing.

Members Present:

Lula Howard, Chair

Michael Seale, Vice Chair

Sharon Bond, Secretary

Kimberly Leanhart

Lindsey Jagoe

Yani Vozos (joined the meeting at approximately 1:03 p.m.)

Members Absent:

Richard Buttorff

Staff Members Present:

Emily Liu, Planning & Design Director

Joe Haberman, Planning & Design Manager

Chris French, Planning & Design Supervisor

Zach Schwager, Planner I

Rachel Mandell, Planner I

Jon Crumby, Planning & Design Coordinator

Laura Ferguson, Legal Counsel

Minutes prepared by: Sue Reid, Management Assistant

On the recommendation of the Louisville Metro Department of Public Health & Wellness regarding congregate events and social distancing, and as permitted by Commonwealth of Kentucky Senate Bill 150, the April 5, 2021 Board of Zoning Adjustment meeting was held online.

The following cases were heard:

BOARD OF ZONING ADJUSTMENT MINUTES
April 5, 2021

MARCH 29, 2021 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:08:49 On a motion by Vice Chair Seale, seconded by Member Bond, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the March 29, 2021 Board of Zoning Adjustment online meeting.

The vote was as follows:

Yes: Members Leanhart, Bond, Vice Chair Seale, and Chair Howard

Abstain: Members Jagoe, and Vozos

Absent: Member Buttorff

00:10:00 Chair Howard called Item #7 on today's agenda at this time. See page 15 of these minutes for testimony.

BOARD OF ZONING ADJUSTMENT MINUTES
April 5, 2021

PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0021

Request: Variance to allow an addition to the primary structure to encroach into the required side yard setback
Project Name: Stodghill Place Variance
Location: 304 Stodghill Pl
Owner: John Ackerman
Applicant: Charles Podgursky
Jurisdiction: Louisville Metro
Council District: 19 – Anthony Piagentini
Case Manager: Rachel Mandell, Planner I

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:

00:48:14 Rachel Mandell presented the case and showed a Powerpoint presentation. Ms. Mandell responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Charles Podgursky, 7321 New LaGrange Rd., Suite 111, Louisville, KY 40222

Summary of testimony of those in favor:

00:53:09 Charles Podgursky spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:55:00 Rachel Mandell and Mr. Podgursky responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

00:57:43 Board Members' deliberation

BOARD OF ZONING ADJUSTMENT MINUTES
April 5, 2021

PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0021

00:58:15 On a motion by Member Leanhart, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare. The addition complies with the front building limit line and does not interfere with any sight distances from the curvature of Stodghill Place. Also, the addition will be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as several of the surrounding properties have front porches and attached garages, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the property is situated on a cul-de-sac with a rounded front yard and the addition will follow the same shape of the lot, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the historic age of the home and orientation on the lot are consequence of a later subdivision; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0021 does hereby **APPROVE** Variance from Land Development Code Table 5.3.1 to allow a principal structure to encroach into the required side yard setback **(Northern Side Yard Requirement 6 ft., Request 3.8 ft., Variance 2.2 ft.)**.

The vote was as follows:

Yes: Members Jagoe, Leanhart, Bond, Vice Chair Seale, and Chair Howard
Abstain: Member Vozos
Absent: Member Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
April 5, 2021

PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0022

Request: Variance to allow an addition to the primary structure to encroach into the required side yard setbacks
Project Name: Robin Road Variance
Location: 3316 Robin Road
Owner: Jason Langley
Applicant: Anne Del Prince
Jurisdiction: Audubon Park
Council District: 10 – Pat Mulvihill
Case Manager: Rachel Mandell, 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:

01:00:24 Rachel Mandell presented the case and showed a Powerpoint presentation. Ms. Mandell responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Anne Del Prince, 640 Country Club Road, Louisville, KY 40206
Kelly Langley, 3316 Robin Road, Louisville, KY 40213

Summary of testimony of those in favor:

01:04:59 Anne Del Prince spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:08:08 Kelly Langley spoke in favor of the request (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
April 5, 2021

PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0022

The following spoke in opposition of the request:

No one spoke.

01:09:20 Board Members' deliberation

01:09:37 On a motion by Member Bond, seconded by Vice Chair Seale, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare. The addition is toward the rear of the existing residence and will be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as many lots within the subdivision do not meet the minimum lot width for the R-3 zoning district and do not meet the required side yard setbacks, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the structure is toward the rear of the home and aligns with the existing curb cut and driveway. Additionally, the new construction will comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as required zoning regulations do not conform with the existing width of the lot; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0022 does hereby **APPROVE** Variance from Land Development Code Table 5.3.1 to allow a principal structure to encroach into the required side yard setbacks (**Western Side Yard Requirement 7.5 ft., Request 1 ft., Variance 6.5 ft.; Total Side Yard Requirement 22.5 ft., Request 11 ft., Variance 11.5 ft.**)

BOARD OF ZONING ADJUSTMENT MINUTES
April 5, 2021

PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0022

The vote was as follows:

Yes: Members Jagoe, Leanhart, Bond, Vice Chair Seale, and Chair Howard

Abstain: Member Vozos

Absent: Member Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
April 5, 2021

PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0024

Request: Variance to allow a fence in the street side yard setback to exceed 42 inches in height in the Traditional Neighborhood Form District

Project Name: Bellaire Avenue Variance

Location: 178 Bellaire Avenue

Owner: Elizabeth Fitzgibbons & Daniel Slaton

Applicant: Elizabeth Fitzgibbons

Jurisdiction: Louisville Metro

Council District: 9 – Bill Hollander

Case Manager: Zach Schwager, Planner I

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

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

Agency testimony:

01:12:37 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Elizabeth Fitzgibbons, 178 N. Bellaire Ave., Louisville, KY 40206

Summary of testimony of those in favor:

01:22:09 Elizabeth Fitzgibbons spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

BOARD OF ZONING ADJUSTMENT MINUTES
April 5, 2021

PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0024

01:26:08 Board Members' deliberation

01:26:35 On a motion by Member Bond, seconded by Member Jagoe, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the proposed fence provides a sight triangle at the intersection of the alley and Onyx Avenue, which provides vision clearance for motorists and pedestrians, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as Historic Landmarks and Preservation Commission staff approved the certificate of appropriateness for the fence, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public the proposed fence provides a sight triangle at the intersection of the alley and Onyx Avenue, which provides vision clearance for motorists and pedestrians, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed fence along Onyx Avenue provides a reasonable amount of privacy for the private yard area; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0024 does hereby **APPROVE** Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence in the street side yard setback in a Traditional Neighborhood Form District to exceed 42 inches in height (**Street Side Yard Requirement 42 in., Request 72 in., Variance 30 in.**).

The vote was as follows:

Yes: Members Jagoe, Leanhart, Bond, Vice Chair Seale, and Chair Howard
Abstain: Member Vozos
Absent: Member Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
April 5, 2021

PUBLIC HEARING

CASE NUMBER 21-MCUP-0001

Request: Modified Conditional Use Permit to allow the replacement of two existing signs with a singular LED sign
Project Name: Elks Lodge
Location: 2824 Klondike Lane
Owner/Applicant: Louisville Lodge No. 8 Benevolent and Protective Order of Elks of the United States of America, Inc.
Jurisdiction: Louisville Metro
Council District: 10- Pat Mulvihill
Case Manager: Jon E. Crumbie, Planning & Design Coordinator

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

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

NOTE: This case was heard in conjunction with the related Waiver, Item #6 on today's agenda (21-WAIVER-0019)

Agency testimony:

01:29:17 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Tanner Nichols, 400 W. Market Street, Louisville, KY 40202
Elizabeth Harbolt, 2824 Klondike Lane, Louisville, KY 40218

Summary of testimony of those in favor:

01:35:53 Tanner Nichols spoke in favor of the request and showed a Powerpoint presentation. Mr. Nichols responded to questions from the Board Members (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
April 5, 2021

PUBLIC HEARING

CASE NUMBER 21-MCUP-0001

01:46:14 Jon Crumbie responded to questions from the Board Members (see recording for detailed presentation).

01:47:15 Mr. Nichols responded to questions from the Board Members (see recording for detailed presentation).

01:52:12 Elizabeth Harbolt spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:
No one spoke.

01:55:22 Board Members' deliberation

01:58:49 On a motion by Vice Chair Seale, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Modified Conditional Use Permit to allow the replacement of two existing signs with a singular LED sign:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal meets all applicable policies of the Comprehensive Plan, and

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

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed the proposal, and

WHEREAS, the Board further finds that:

Private Proprietary Clubs may be located in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R- 6, R-7, OR-1, OR-2, OR-3, OTF, C-R or PTD Districts where such use is compatible in size and scale with surrounding land uses and where the lot contains at least 2 acres upon the granting of a Conditional Use Permit.

BOARD OF ZONING ADJUSTMENT MINUTES
April 5, 2021

PUBLIC HEARING

CASE NUMBER 21-MCUP-0001

Tennis centers, racquetball clubs or similar operations requiring large structures to house the facilities shall have a development plan approved by the Planning Commission prior to filing an application for a Conditional Use Permit.

- A. All new buildings, structures and facilities shall be at least 30 feet from any property line. **The applicant has been informed of this requirement.**

- B. Outdoor swimming pools shall be enclosed with a fence at least six feet high. **The applicant has been informed of this requirement.**

- C. All recreation areas or play fields and parking lots shall be separated from adjacent properties by a solid fence or dense evergreen shrubbery plantings at least five feet high. **The applicant has been informed of this requirement.**

- D. One sign only may be permitted showing the name and address of the club. An attached sign shall not exceed 30 square feet in area, shall be attached flat to the face of the building, and shall not project more than 18 inches from the face of the building. A free-standing sign shall not exceed 20 square feet in area per side, shall not have more than two sides, and shall not exceed a height of six feet. Either an attached sign or a free-standing sign may be permitted, but not both. No sign shall project into any required yard. The sign may be illuminated but nonflashing. **The applicant is asking for relief. Although the sign will be larger than allowed it seems reasonable to allow the replacement of three signs with singular freestanding sign. The three existing sign signs have a square footage of approximately 91 square feet combined. The proposed sign will be approximately 42 square feet and 6 feet in height;** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-MCUP-0001 does hereby **APPROVE** Modified Conditional Use Permit to allow the replacement of two existing signs with a singular LED sign, with **RELIEF** from Standard 4D.

The vote was as follows:

Yes: Members Jagoe, Leanhart, Bond, Vice Chair Seale, and Chair Howard
Abstain: Member Vozos
Absent: Member Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
April 5, 2021

PUBLIC HEARING

CASE NUMBER 21-MCUP-0001

02:02:10 **Board Members' deliberation for Waiver**

02:03:05 On a motion by Member Jagoe, seconded by Vice Chair Seale, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Waiver to allow the proposed LED sign to be closer than 300 feet to a residential use:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners in that neighboring sites are fully developed with uses compatible with the use of the site and the signage requested, and

WHEREAS, the Board further finds that the waiver does not violate guidelines of Plan 2040, which requires that: adverse visual intrusions must be considered when there are impacts to residential areas (Community Form 20), and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant in that the sign meets all remaining LDC standards and requirements, and

WHEREAS, the Board further finds that strict application of the provisions of the regulation would create an unnecessary hardship as development on adjacent sites is compatible with the use of the subject site and the residential development in the vicinity will suffer minimal to no negative impacts due to the orientation of the sign; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-MCUP-0001 (21-WAIVER-0019) does hereby **APPROVE** Waiver to allow the proposed LED sign to be closer than 300 feet to a residential use (**Adjacent Residential Use East Requirement 300 ft., Request 90 ft., Waiver 210 ft.; Adjacent Residential Use West Requirement 300 ft., Request 75 ft., Waiver 125 ft.**).

The vote was as follows:

Yes: Members Jagoe, Leanhart, Bond, Vice Chair Seale, and Chair Howard

Abstain: Member Vozos

Absent: Member Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
April 5, 2021

PUBLIC HEARING

CASE NUMBER 21-WAIVER-0019

Request: Waiver to allow a proposed LED sign to be closer than 300 feet to a residential use
Project Name: Elks Lodge
Location: 2824 Klondike Lane
Owner/Applicant: Louisville Lodge No. 8 Benevolent and Protective Order of Elks of the United States of America, Inc.
Jurisdiction: Louisville Metro
Council District: 10- Pat Mulvihill
Case Manager: Jon E. Crumbie, Planning & Design Coordinator

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

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

NOTE: This case was heard in conjunction with the related Modified Conditional Use Permit (Item #5 on today's agenda). Please see testimony beginning on page 10 of these minutes, and Motion/Vote information on page 13 of these minutes).

BOARD OF ZONING ADJUSTMENT MINUTES
April 5, 2021

PUBLIC HEARING

CASE NUMBER 21-APPEAL-0002

Request: Appeal of an administrative decision concerning nonconforming rights for four dwelling units on one property in an R-5 zoning district

Project Name: Rothpletz Dwelling Units

Location: 1735 Bonnycastle Avenue

Owner(s): Excelsior 211, LLC

Appellant: John Rothpletz

Jurisdiction: Louisville Metro

Council District: 8 – Cassie Chambers Armstrong

Case Manager: Jon E. Crumbie, Planning & Design Coordinator

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

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

Agency testimony:

00:11:04 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the appeal:

Cliff Ashburner, 101 S. Fifth St., Suite 2500, Louisville, KY 40202

Summary of testimony of those in favor:

00:15:40 Cliff Ashburner spoke in favor of the appeal and showed a Powerpoint presentation. Mr. Ashburner responded to questions from the Board Members (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
April 5, 2021

PUBLIC HEARING

CASE NUMBER 21-APPEAL-0002

The following spoke in opposition of the appeal:

No one spoke.

00:40:02 Board Members' deliberation

00:43:03 On a motion by Vice Chair Seale, seconded by Member Leanhart, the following resolution, based upon the evidence and testimony presented today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that a residential multi-family use with four residential units existed on the lot in 1971, and

WHEREAS, the Board further finds that the use of the property continued to the present day; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-APPEAL-0002 does hereby **OVERTURN** Staff's decision and **APPROVE** the Appeal, granting Nonconforming rights for four residential units.

The vote was as follows:

Yes: Members Jagoe, Leanhart, Bond, Vice Chair Seale, and Chair Howard

Abstain: Member Vozos

Absent: Member Buttorff

00:47:47 Chair Howard called Item #2 on today's agenda at this time. See page 3 of these minutes for testimony.

BOARD OF ZONING ADJUSTMENT MINUTES
April 5, 2021

02:06:43 Prior to adjournment, the Board Members welcomed new Board Member, Yani Vozos.

The meeting adjourned at approximately 3:15 p.m.

Chair

Secretary