

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

January 22, 2018

A meeting of the Louisville Metro Board of Zoning Adjustment was held on January 22, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Mike Allendorf, Chair
Betty Jarboe, Vice Chair
Rosalind Fishman, Secretary
Lula Howard
Lester Turner
Dwight Young
Richard Buttorff

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Haberman, Planning & Design Manager
Steve Hendrix, Planning & Design Supervisor
Beth Jones, Planner II
Dante St. Germain, Planner I
Jon Crumbie, Planning & Design Coordinator
John Carroll, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

JANUARY 9, 2018 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:02:31 On a motion by Member Fishman, seconded by Vice Chair Jarboe, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on January 9, 2018.

The vote was as follows:

Yes: Members Fishman, Turner, Young, Buttorff, Vice Chair Jarboe, and Chair Allendorf

Abstain: Member Howard

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BUSINESS SESSION

CASE NUMBER 17CUP1104

Request:	Modified Conditional Use Permit to allow a parking garage and hospital addition
Project Name:	Norton Brownsboro Hospital
Location:	4960 Norton Healthcare Boulevard
Owner:	Norton Hospitals, Inc.
Applicant:	Norton Hospitals, Inc.
Representative:	Glenn Price
Jurisdiction:	Louisville Metro
Council District:	16 – Scott Reed
Case Manager:	Jon E. Crumbie, Planning and 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:

00:03:57 Jon Crumbie presented the case and showed the site plan. 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:

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

Summary of testimony of those in favor:

00:05:42 Glenn Price spoke in favor of the request (see recording for detailed presentation).

00:06:18 Jon Crumbie 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.

00:07:04 On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the applicable policies of the Comprehensive Plan, and

WHEREAS, the Board further finds that the proposal is compatible with the surrounding land uses and general character of the area with respect to height, bulk, scale, intensity, traffic, noise, drainage, lighting, and appearance, and

WHEREAS, the Board further finds that the proposal has been reviewed and approved by the Metropolitan Sewer District and Transportation Planning. The Worthington fire Protection district did not comment on the proposal, and

WHEREAS, the Board further finds that:

4.2.29 Hospitals and Medical Clinics Hospitals and medical clinics may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements:

- A. In form districts where nonresidential freestanding signs are not permitted, a single freestanding on-premise sign, not exceeding 80 square feet in area and not exceeding 10 feet in height, may be placed at each major entrance. Attached signs shall be designed in accordance with form district requirements, but the Board reserves the right to approve the size and location of all attached signs.
- B. All buildings and structures shall be at least 30 feet from any property line.
- C. Medical clinics shall provide an indoor waiting area(s) for clients. The waiting area shall be large enough to accommodate the clients arriving for services.
- D. Parking for medical clinics shall be adequate to accommodate the maximum number of clients expected to be at the site at one time.

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- E. Such facilities shall be located on or near a collector or arterial street with reasonable access to public transportation.

NOTE: The provisions of this Section 4.2.29 do not apply to Medical Offices as such are defined in this Land Development Code; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1104 does hereby **APPROVE** a Modified Conditional Use Permit, based upon the presentation, and the Staff Report, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a hospital without further review and approval by the Board.

The vote was as follows:

Yes: Members Fishman, Howard, Turner, Young, Buttorff, Vice Chair Jarboe, and Chair Allendorf

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CASE NUMBER 17VARIANCE1079

Request:	Variance to allow a building to exceed 45 feet in height in a form district transition zone and Variance to allow a structure to encroach into the required rear yard setback
Project Name:	Candlewood Suites
Location:	11350 Maple Brook Drive
Owner:	Dream Hospitality Inc. & KPM
Applicant:	BTM Engineering
Representative:	Chris Brown
Jurisdiction:	Louisville Metro
Council District:	17 – Glen Stuckel
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:

00:09:09 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:

Chris Brown, 3001 Taylor Springs Drive, Louisville, KY 40220
Nathan Chappell, 3001 Taylor Springs Drive, Louisville, KY 40220

Summary of testimony of those in favor:

00:16:40 Chris Brown spoke in favor of the request and showed a Powerpoint presentation. Mr. Brown responded to questions from the Board Members (see recording for detailed presentation).

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00:21:07 Nathan Chappell spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:22:22 Chris Brown responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

00:24:10 Board Members' deliberation

00:26:19 On a motion by Vice Chair Jarboe, seconded by Member Buttorff, the following resolution was adopted:

Variance from Land Development Code Section 5.7.1.B.1 to allow a building to exceed 45 feet in height in a form district transition zone:

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 variance represents a 17.8% increase in height over the height allowed by section 5.7.1.B.1, which is unlikely to be noticeable from adjoining properties, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposed development will continue a generally commercial character along, and in the immediate vicinity of, Chamberlain Lane, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the adjoining lot closest to the proposed location of the building is currently buffered by wooded open space between the building and the residential structures. Additionally, the building will comply with the full required form district transition zone rear yard of 50 feet, with the majority of that space remaining wooded, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the increase in height is relatively small over the height allowed by the zoning regulations, and

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considerable buffering exists between the proposed location of the building and the nearest residential structure, 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 because the lot is subject to form district transition zone standards, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the applicant to construct a building one floor shorter, which may make the development economically infeasible, 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 requested variances will not adversely affect public health safety or welfare since the building height will be in keeping with similar structures with the area and the retaining wall in the rear yard is being utilized to prevent encroachments into the stream buffer from Hite Creek. Tree canopy will be preserved along the rear yard to minimize the impacts of both requested variances, and

WHEREAS, the Board further finds that the requested variances will not alter the essential character of the general vicinity since there is an established pattern of extensive encroachments to the west of the property along Chamberlain Lane and buildings at heights above 45' within the area. The requested variances on the subject site are well below the threshold of the existing pattern within the larger mixed use center on Chamberlain Lane, and

WHEREAS, the Board further finds that the requested variances will not cause a hazard or nuisance to the public since extensive tree canopy will be preserved along the rear property perimeter to minimize impacts of the building and retaining wall. There are no residential structures located along the rear portion of the subject site which further minimizes any nuisance to the public, and

WHEREAS, the Board further finds that the variances will not allow an unreasonable circumvention of the requirements of the zoning regulations since there are extensive encroachments and varying heights throughout the existing regional center area along Chamberlain Lane, and

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WHEREAS, the Board further finds that the variances arise from specific conditions of the subject site such as large grade changes, Hite Creek and the corresponding stream buffer to the east and vacant residential areas to the rear of the property. The requested variances result from balancing these varying requirements, preserving tree canopy and minimizing impacts of the development on any residential uses in the area, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulations would create an unnecessary hardship by preventing the needed additional height along portions of the building to accommodate stairwells and parapets as well as preventing the use of a needed retaining wall to address the major grade changes on the property, 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 since no construction has occurred and the variances result from existing property conditions; and

Variance from Land Development Code Section 5.3.3.C.2.b to allow a structure to encroach into the required rear yard setback:

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 encroachment will be made by a retaining wall, not by the principal structure on the property, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the retaining wall will be screened by a wooded buffer between the wall and the nearest residential structure, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the retaining wall will be constructed according to building codes and it has received preliminary approval from MSD, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the encroachment is needed in order to construct the principal structure outside the stream buffer around Hite Creek, which is located to the northeast of the site, and

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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 because the property has steep slopes around the perimeter, and part of the property is within the Hite Creek stream buffer, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the applicant to shift the building on the lot to a less advantageous position with respect to the stream buffer and the necessary parking, 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 requested variances will not adversely affect public health safety or welfare since the building height will be in keeping with similar structures with the area and the retaining wall in the rear yard is being utilized to prevent encroachments into the stream buffer from Hite Creek. Tree canopy will be preserved along the rear yard to minimize the impacts of both requested variances, and

WHEREAS, the Board further finds that the requested variances will not alter the essential character of the general vicinity since there is an established pattern of extensive encroachments to the west of the property along Chamberlain Lane and buildings at heights above 45' within the area. The requested variances on the subject site are well below the threshold of the existing pattern within the larger mixed use center on Chamberlain Lane, and

WHEREAS, the Board further finds that the requested variances will not cause a hazard or nuisance to the public since extensive tree canopy will be preserved along the rear property perimeter to minimize impacts of the building and retaining wall. There are no residential structures located along the rear portion of the subject site which further minimizes any nuisance to the public, and

WHEREAS, the Board further finds that the variances will not allow an unreasonable circumvention of the requirements of the zoning regulations since there are extensive encroachments and varying heights throughout the existing regional center area along Chamberlain Lane, and

WHEREAS, the Board further finds that the variances arise from specific conditions of the subject site such as large grade changes, Hite Creek and the

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corresponding stream buffer to the east and vacant residential areas to the rear of the property. The requested variances result from balancing these varying requirements, preserving tree canopy and minimizing impacts of the development on any residential uses in the area, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulations would create an unnecessary hardship by preventing the needed additional height along portions of the building to accommodate stairwells and parapets as well as preventing the use of a needed retaining wall to address the major grade changes on the property, 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 since no construction has occurred and the variances result from existing property conditions; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1079 does hereby **APPROVE** Variance from Land Development Code Section 5.7.1.B.1 to allow a building to exceed 45 feet in height in a form district transition zone (**Requirement 45 feet, Request 53 feet, Variance 8 feet**), and Variance from Land Development Code Section 5.3.3.C.2.b to allow a structure to encroach into the required rear yard setback (**Requirement 50 feet, Request 35 feet, Variance 15 feet**), based upon the Staff Report, the applicant's site plan, and justification statement.

The vote was as follows:

Yes: Members Fishman, Howard, Turner, Young, Buttorff, Vice Chair Jarboe, and Chair Allendorf

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CASE NUMBER 17VARIANCE1105

Request:	Variance to allow a structure to encroach into the required street side yard setback
Project Name:	3214 Dublin Lane Screened Porch
Location:	3214 Dublin Lane
Owner:	Maureen Ranney Kirk
Applicant:	Mary Herd Jackson
Representative:	Mary Herd Jackson
Jurisdiction:	Louisville Metro
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:

00:28:20 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:

Mary Jackson, 75 Westwind Road, Louisville, KY 40207

Summary of testimony of those in favor:

00:33:14 Mary Jackson 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.

00:35:12 Board Members' deliberation

00:36:00 On a motion by Member Turner, seconded by Vice Chair Jarboe, 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 proposed structure will not obstruct views or sight lines for motorists at the corner, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the principal structure on this property is significantly older than the other principal structures in the general vicinity and is already unusual in its design and scale, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed screened porch will not create a hazard at the corner, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as a screened porch is an appropriate type of addition to this structure, and there are constraints in the rear yard which limit the applicant's ability to place the screened porch in any other location, 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 because the principal structure is significantly older than other structures in the vicinity, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may create an unnecessary hardship on the applicant by requiring the applicant to construct the screened porch off of the kitchen in the rear, rather than off the parlor and dining room at the side of the residence, 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 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 17VARIANCE1105 does hereby **APPROVE** Variance from Land Development Code Table 5.3.1 to allow a structure to encroach into the required street side yard setback (**Requirement 25 ft., Request 7.5 ft., Variance 17.5 ft.**), based upon the Staff Report, the testimony heard today, and the applicant's justification.

The vote was as follows:

Yes: Members Fishman, Howard, Turner, Young, Buttorff, Vice Chair Jarboe, and Chair Allendorf

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CASE NUMBER 17VARIANCE1104

Request:	Variance to allow a structure to encroach into the required side yard setback
Project Name:	937 E Oak Street Addition
Location:	937 E Oak Street
Owner:	Weiss & Smith Real Estate
Applicant:	Jason Weiss
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:

00:37:44 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:

00:43:21 Jason Weiss spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:46:41 Ms. St. Germain responded to questions from the Board Members regarding the site plan (see recording for detailed presentation).

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00:47:53 Mr. Weiss responded to questions from the Board Members (see recording for detailed presentation).

00:48:12 Board Members' deliberation

00:48:46 On a motion by Member Howard, seconded by Vice Chair Jarboe, 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 existing structure encroaches into the required setback, which has caused no known adverse effects, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as reduced setbacks are common in the immediate vicinity of the subject property, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the abutting lot closest to the requested variance location is currently undeveloped, and a 4 foot setback is proposed on the opposite side of the lot where another structure exists, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the second floor addition will need to have walls in line with the existing first-story walls in order to avoid more complicated and potentially costly engineering challenges which would arise from having the second story off-set to comply with the required setback, 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 because the lot is unusually narrow, and the first floor structure already exists and already encroaches into the required side yard setback, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may create an unnecessary hardship on the applicant by requiring the applicant to off-set the second floor, creating a significant and potentially costly engineering challenge to maintain a safe structure, 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 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 17VARIANCE1104 does hereby **APPROVE** Variance from Land Development Code Section 5.1.10.F to allow a structure to encroach into the required side yard setback (**Requirement 2.43 ft., Request 0.5 ft., Variance 1.93 ft.**), based upon the Staff Report, the applicant's justification, the rendering, and the site plan.

The vote was as follows:

Yes: Members Fishman, Howard, Turner, Young, Buttorff, Vice Chair Jarboe, and Chair Allendorf

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CASE NUMBER 17VARIANCE1101

Request:	Variance to allow a screen room & deck to encroach into the required front yard setback
Project Name:	4101 Brook Farm Place Screen Room & Deck
Location:	4101 Brook Farm Place
Owner:	Jerry & Mary Ann Becker
Applicant:	Mike Hardin, Enterprise Home Improvements, LLC
Representative:	Mike Hardin, Enterprise Home Improvements, LLC
Jurisdiction:	Louisville Metro
Council District:	11 – Kevin Kramer
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:

00:50:42 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:

Michael Hardin, 6215 Shepherdsville Road, Louisville, KY 40228

Summary of testimony of those in favor:

00:55:51 Michael Hardin 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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00:58:29 Board Members' deliberation

00:59:41 On a motion by Member Fishman, seconded by Member Howard, 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 screen room and deck will be enclosed by an existing fence, with landscaping between the fence and the edge of pavement of Stony Brook Drive, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity. The deck, which is level with the first floor of the one-story building, would be screened for the most part by the fence and landscaping. Further, neighboring properties have decks and patios that are visible from Stony Brook Drive. While there are not any other screen rooms on neighboring properties that are visible from Stony Brook Drive, the design of the approved subdivision includes only a few lots in which their effective rear yards are along Stony Brook Drive. The rear of the building is already visible from Stony Brook Drive and a screen room addition is typical in a rear yard, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the screen room and deck will be constructed according to building code and are not in conflict with any public right of way or utility services, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the front yard with frontage on Stony Brook Drive is shallow and the screen room and deck will be largely concealed by the existing fence and landscaping, 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 because this lot has frontage on two public streets, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by preventing the applicant from constructing the screen room and deck due to the presence of two front yard setback requirements as opposed to the more typical front and rear yard requirements, 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 the applicant is requesting a variance and has not yet 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 17VARIANCE1101 does hereby **APPROVE** Variance from Land Development Code Table 5.3.1 to allow structures (screen room and deck) to encroach into the required Stony Brook Drive front yard setback (**Requirement 25 ft., Request 15 ft., Variance 10 ft.**), based upon the presentation, the Staff Report, and the applicant's justification.

The vote was as follows:

Yes: Members Fishman, Howard, Turner, Young, Buttorff, Vice Chair Jarboe, and Chair Allendorf

01:01:09 Meeting was recessed.

01:01:27 Meeting was reconvened.

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CASE NUMBER 17VARIANCE1107

Request:	Variance to permit canopy and accessory structure to encroach into the required rear yard setback and associated waivers
Project Name:	Canopy/Accessory Structure
Location:	4139 Bardstown Road
Owner:	Eli Thomas
Applicant:	Eli Thomas
Representative:	Land Design and Development Inc.
Jurisdiction:	Louisville Metro
Council District:	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:

01:03:19 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:

Mike Hill, 503 Washburn Avenue, Louisville, KY 40222

Summary of testimony of those in favor:

01:11:34 Mike Hill spoke in favor of the request and showed a Powerpoint presentation. Mr. Hill 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.

01:24:51 Board Members' deliberation

01:26:22 On a motion by Member Turner, seconded by Member Young, the following resolution was adopted:

Variance to permit a canopy addition to be located 10 ft. from the north property line adjoining a residential parcel (LDC 5.3.2.C.2.b), and Variance to permit an accessory structure to be located 10 ft. from the north property line adjoining a residential parcel (LDC 5.3.2.C.2.b):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variances will not alter traffic flow on this site and will have no new adverse effects on health, safety or welfare of the public, and

WHEREAS, the Board further finds that the variances are required to accommodate existing site conditions and will not alter the character of the general vicinity, and

WHEREAS, the Board further finds that the request will not cause a public hazard or nuisance through excessive noise, vibration or odor. Lighting will be subject to Construction Review standards which will mitigate potential impacts on neighboring residential properties, and

WHEREAS, the Board further finds that the requested variances are not unreasonable as they are based on existing conditions on the site, and

WHEREAS, the Board further finds that the existing conditions on this site do not necessarily apply to other land in the general vicinity, and

WHEREAS, the Board further finds that the canopy would not serve the required purpose if it cannot cover the general area of the existing VUA, and

WHEREAS, the Board further finds that the zoning regulation from which relief is being sought was in place before the applicant proposed this development, and

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WHEREAS, the Board further finds that: Variance #1-Canopy Addition: This variance will not adversely affect the public health, safety or welfare because pedestrian and vehicular traffic flow will not be altered on the subject site or adjacent properties due to the granting of this variance request; and Variance #2-Accessory Structure: This variance will not adversely affect the public health, safety or welfare because pedestrian and vehicular traffic flow will not be altered on the subject site or adjacent properties due to the granting of this variance request, and

WHEREAS, the Board further finds that: Variance #1-Canopy Addition: This variance will not alter the essential character of the general vicinity because the proposed canopy will not be located any closer to the property lines than where current business activities have already been occurring for several years. Furthermore, there exists a 6' tall privacy fence along the northern property line that will continue to screen the car wash site from the adjacent residential neighbor. Additional plantings will also be installed along the north property to increase the screening of the sit; and Variance #2-Accessory Structure: This variance will not alter the essential character of the general vicinity because a similar storage building has been located on the same side of the subject property for more than ten years. The fact that the applicant wishes to remove this building and place a similar building in the same general vicinity that fits in with the new canopy design will not alter the character of the general vicinity, and

WHEREAS, the Board further finds that: Variance #1-Canopy Addition: This variance will not cause a hazard or a nuisance to the public because the canopy structure is completely contained within the subject site and will still be located several feet from both affected property lines. Additionally, by enclosing the current outdoor business activities with this canopy structure, there likely will be less chance of noise or visual intrusion upon the surrounding properties; and Variance #2-Accessory Structure: This variance will not cause a hazard or a nuisance to the public, in fact this layout will help to further divide the business activity from the public right-of-way, and

WHEREAS, the Board further finds that: Variance #1-Canopy Addition: This variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the applicant is simply requesting to utilize an area of his property that has been used for business activities without any concern for many years; and Variance #2-Accessory Structure: This variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the applicant is simply asking for this accessory structure to be incorporated into his business model similar to how the existing accessory building was allowed and permitted by Louisville Metro in 2007, and

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WHEREAS, the Board further finds that: Variance #1-Canopy Addition: Special circumstances in this case include the fact that this property has been used commercially for many years prior to the creation of the non-residential to residential setback regulations; and Variance #2-Accessory Structure: Small corner lots in this area certainly have less usable area than the standard lot in this zone. Not allowing the accessory building to be located near the rear corner of the site in the desired location would prohibit the minimum turning radius needed to be able to adequately maneuver vehicles through the proposed canopy structure, and

WHEREAS, the Board further finds that: Variance #1-Canopy Addition: The strict application of the applicable regulations would not allow the applicant's business to be improved as planned in a manner that is still respectful the surrounding properties; and Variance #2-Accessory Structure: The strict application of the applicable regulations would not allow the applicant's business to be improved as planned in a manner that is still respectful of the surrounding properties, and

WHEREAS, the Board further finds that: Variance #1-Canopy Addition: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought. The applicant is proposing to develop the site after the adoption of the applicable regulation; and Variance #2-Accessory Structure: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought. The applicant is proposing to develop the site after the adoption of the applicable regulation; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1107 does hereby **APPROVE** Variance to permit a canopy addition to be located 10 ft. from the north property line adjoining a residential parcel (LDC 5.3.2.C.2.b) (**Requirement 25 ft., Request 10 ft., Variance 15 ft.**), and Variance to permit an accessory structure to be located 10 ft. from the north property line adjoining a residential parcel (LDC 5.3.2.C.2.b) (**Requirement 25 ft., Request 10 ft., Variance 15 ft.**), based the Staff Report, the applicant's testimony, and the applicant's justification.

The vote was as follows:

Yes: Members Fishman, Howard, Turner, Young, Buttorff, Vice Chair Jarboe, and Chair Allendorf

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01:28:40 On a motion by Member Turner, seconded by Member Young, the following resolution was adopted:

Waiver #1 to reduce the width of the required LBA along the north property line from 25 ft. to 10 ft. (LDC 10.2), and Waiver #2 to allow the accessory structure to be visible from Fairland Avenue (LDC 5.5.5.A.1):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waivers will not adversely affect adjacent property owners as the requests reflect existing conditions on the site, and

WHEREAS, the Board further finds that the waivers will not violate Cornerstone 2020 guidelines as the proposed development is consistent with the permitted use of the property and will not increase negative impacts on adjacent residential uses, and

WHEREAS, the Board further finds that the extent of the waivers is the minimum necessary to afford relief to the applicant as it is based on accommodation of existing conditions on the site, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as meeting the requirements would necessitate removal of existing pavement that would interfere with turning radii on that portion of the site, and

WHEREAS, the Board further finds that: Waiver #1: The waiver will not adversely affect the adjacent property owners because an existing privacy fence will continue to screen the neighbors from the activities that occur on the site; and Waiver #2: The waiver will not adversely affect the adjacent property owners because an existing accessory structure has been located on the site in a similar location without any negative impacts on the neighbors, and

WHEREAS, the Board further finds that: Waiver #1: The waiver will not violate the Comprehensive Plan because the required screening will still be provided. Additionally, the applicant intends to help mitigate the effects of the waiver request by providing the required number of trees on the site; and Waiver #2: The waiver will not violate the Comprehensive Plan because the side of the accessory structure facing Fairland Avenue will act as a screening device itself prohibiting the activity occurring within the accessory structure from being visible from Fairland Avenue, and

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WHEREAS, the Board further finds that: Waiver #1: The applicant is requesting the minimum necessary relief that will allow the business to be improved while still providing the required screening adjacent to the only residential neighbor; and Waiver #2: The applicant is requesting the minimum necessary relief given that there are no proposed doors or openings in the accessory structure facing Fairland Avenue, and

WHEREAS, the Board further finds that: Waiver #1: The strict application of the regulation would require the applicant to remove several feet of existing pavement and would prohibit the necessary turning movements for cars entering the car wash from being possible; and Waiver #2: The applicant has proposed a site layout that will allow his business to expand and be successful without negatively impacting nearby neighbors or motorists on Fairland Avenue; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1107 does hereby **APPROVE** Waiver #1 to reduce the width of the required LBA along the north property line from 25 ft. to 10 ft. (LDC 10.2), and Waiver #2 to allow the accessory structure to be visible from Fairland Avenue (LDC 5.5.5.A.1), based upon the applicant's testimony, the Staff Report and the applicant's justification.

The vote was as follows:

Yes: Members Fishman, Howard, Turner, Young, Buttorff, Vice Chair Jarboe, and Chair Allendorf

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CASE NUMBER 17VARIANCE1100

Request:	Variance to permit structure to encroach into the required side yard setback
Project Name:	Garage/Accessory Apartment
Location:	1313 E. Washington
Owner:	Bruce McCann
Applicant:	Bruce McCann
Representative:	Bruce McCann
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
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:

01:30:25 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:

Bruce McCann, 1313 East Washington Street, Louisville, KY 40206

Summary of testimony of those in favor:

01:38:39 Bruce McCann 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.

01:42:13 Board Members' deliberation

01:42:22 Ms. Jones responded to questions from the Board Members (see recording for detailed presentation).

01:48:29 On a motion by Member Fishman, seconded by Member Buttorff, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested reductions of the required side yard will not deprive the adjacent property or the public right-of-way of light, air or privacy, and

WHEREAS, the Board further finds that the structure resulting from this variance request is consistent with garage placement on properties in the vicinity, 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 requested variance is not unreasonable as it will result in development of the property consistent with other development in the vicinity, and

WHEREAS, the Board further finds that there are similar structures in the neighborhood and it would not be out of character, and

WHEREAS, the Board further finds that the zoning regulations from which relief is being sought were in place before the applicant proposed this development, 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 17VARIANCE1100 does hereby **APPROVE** Variance to permit a structure to

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encroach into the required side yard setback along the east property line (LDC 5.4.1.E.5) (**Requirement 2 ft., Request 0 ft., Variance 2 ft.**), based upon the presentation, the Staff Report with changes to Additional Considerations #1 and #2 to say that there are similar structures in the neighborhood and it would not be out of character, and the applicant's justification.

The vote was as follows:

Yes: Members Fishman, Howard, Turner, Young, Buttorff, and Chair Allendorf

No: Vice Chair Jarboe

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CASE NUMBER 17CUP1098

Request:	CUP for outdoor alcohol sales and consumption
Project Name:	Smyrna Parkway Plaza
Location:	8607 Smyrna Parkway
Owner:	Smyrna Road Plaza II LLC
Applicant:	Smyrna Road Plaza II LLC
Representative:	Land Design and Development Inc.
Jurisdiction:	Louisville Metro
Council District:	23 – James Peden
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:

01:50:40 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:

Sarah Beth Sammons, 503 Washburn Avenue, Louisville, KY 40222

Summary of testimony of those in favor:

01:54:46 Sarah Beth Sammons spoke in favor of the request and showed a Powerpoint presentation. Ms. Sammons 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.

01:58:21 Board Members' deliberation

01:59:29 On a motion by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with Comprehensive Plan policies regarding location within a center, shared entrances and parking, is appropriately buffered from adjoining less intense uses and will not require improvements to public infrastructure or utilities, and

WHEREAS, the Board further finds that the proposal is compatible with the site on which it is located and with adjoining uses, and

WHEREAS, the Board further finds that no alterations or improvements to public facilities are required, and

WHEREAS, the Board further finds that:

4.2.41 Outdoor Alcohol Sales and Consumption/Indoor Entertainment Activity for a Restaurant in the C-1 Zoning District

Outdoor alcohol sales and consumption and/or indoor live entertainment for a restaurant may be permitted in the C-1 zoning district upon the granting of conditional use permit and compliance with the listed requirements:

- A. All outdoor areas for the sale and consumption of alcohol must have designated boundaries **The area where alcohol will be served is surrounded by a 4 ft. high decorative iron fence.**
- B. Outdoor dining areas within the public right-of-way must receive approval from the agency responsible for transportation engineering and shall be designed in accordance with agency standards. **Transportation Planning has provided preliminary approval of the proposal.**

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- C. Outdoor dining areas adjacent to the public right-of-way shall contain a physical barrier that is at least three feet in height. The barrier should be designed to permit existing legal access from building to the adjacent public right-of-way. **The proposed patio is not adjacent to a public right-of-way.**
- D. Outdoor dining areas that include the sale and consumption of alcohol within 50 feet of a residentially zoned or used property shall provide a six foot continuous screen as part of the designated boundary for the areas of the outdoor area within 50 feet of residentially used or zoned property. The continuous screen shall be in conformance with the LDC 10.4 Implementation Standards. **The proposed patio is more than 50 feet from the nearest residential property.**
- E. This conditional use permit shall be limited to restaurant uses in C-1 that hold the following types of ABC licenses:
1. Restaurant liquor and wine license by the drink for 100 plus seats
 2. Restaurant wine license by the drink for restaurants with seating for 100 and receives at least 70 percent gross receipts from food sales
- F. The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 1:00 A.M.
- G. The entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99). **The applicant has been informed of this requirement, and has stated that no indoor entertainment is proposed.**
- H. BOZA may require additional and more restrictive requirements than those listed above based on conditions at the specific location and characteristics of the specific restaurant; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1098 does hereby **APPROVE** Conditional Use Permit for outdoor alcohol sales and consumption for a restaurant in the C-1 zoning district (LDC 4.2.41), based upon the Staff Report, the applicant's testimony, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. All development shall be in accordance with the approved district development plan, including all notes thereon, and with all applicable sections of the Land Development Code (LDC). No further development shall occur on

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the site without prior review of and approval by the Board of Zoning Adjustment (BOZA).

2. The Conditional Use Permit shall be exercised as proscribed by KRS 100.237 within two years of BOZA approval. If it is not so exercised, the site shall not be used for outdoor alcohol sales and consumption for a restaurant in the C-1 zoning district without further review and approval by BOZA.

The vote was as follows:

Yes: Members Fishman, Howard, Turner, Young, Buttorff, Vice Chair Jarboe, and Chair Allendorf

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CASE NUMBER 17CUP1092

Request:	CUP to permit a Rehabilitation Homes with associated relief and waiver
Project Name:	The Commitment House
Location:	2129 W. Market Street
Owner:	LOP Properties LLC
Applicant:	Dennis Barnett
Representative:	Cardinal Planning & Design Inc.
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
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:

02:01:08 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:

Kathy Matheny, 9009 Preston Highway, Louisville, KY 40219
Dennis Barnett, 111 Holiday Court, Elizabethtown, KY 42701

Summary of testimony of those in favor:

02:08:47 Kathy Matheny spoke in favor of the request and showed a Powerpoint presentation. Ms. Matheny responded to questions from the Board Members (see recording for detailed presentation).

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02:15:20 Dennis Barnett spoke in favor of the request and explained the operation of The Commitment House. Mr. Barnett responded to questions from the Board Members (see recording for detailed presentation).

02:19:35 Beth Jones suggested providing Relief from the Parking Requirements for residents because there would still be parking for the staff members.

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

02:20:34 Board Members' deliberation

02:22:28 On a motion by Vice Chair Jarboe, seconded by Member Young, the following resolution was adopted:

Conditional Use Permit for Rehabilitation Home (LDC 4.2.31), with Relief from Rehabilitation Home CUP Parking Standard (LDC 4.2.31.C):

WHEREAS, the Louisville Metro Board of Zoning adjustment finds that the proposal is consistent with the Comprehensive Plan in that it is a reuse of an existing historic structure and is not expected to create significant additional burdens on public infrastructure, and

WHEREAS, the Board further finds that the proposal will require no exterior additions or significant alterations to the site or its existing structures, and

WHEREAS, the Board further finds that public facilities appear to be adequate to serve the site, and

WHEREAS, the Board further finds that:

4.2.31 Rehabilitation Home Rehabilitation homes may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements.

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- A. If using an existing residential building constructed contemporaneously with the surrounding neighborhood, its exterior appearance shall not be substantially altered. **No exterior alterations or additions are proposed to the existing principal structure, which was constructed contemporaneously with the original historic neighborhood.**
- B. New construction within an area having an established front building setback shall be constructed at the average setback line or the minimum front yard of the form district, whichever is less. Structures adjacent to residential uses or zoning districts shall increase side yards by 10 feet for each story over two. **No new exterior construction is proposed for the site.**
- C. One parking space on site shall be provided for each staff person, plus two spaces for each five residents, or five clients served by the rehabilitation home. Parking shall be reduced to one space per five residents/clients if the rehabilitation home serves persons with disabilities that preclude operation of an automobile. **Relief is requested since, according to the applicant, residents will be confined to the site for the entire period of their residence and parking will be required only for a maximum of three staff members. On- street and on-site garage parking appears to be adequate to serve staff. Available on-street parking on W. Market Street and other nearby roadways appears adequate to serve any guests or visitors to the facility.**
- D. One freestanding sign not to exceed 10 square feet and 4 feet in height shall be allowed. **Proposal does not include freestanding signage.**
- E. The Board shall add any additional restrictions necessary to mitigate nuisances or adverse effects.

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1092 does hereby **APPROVE** Conditional Use Permit for Rehabilitation Home (LDC 4.2.31), noting Relief from Rehabilitation Home CUP Parking Standard (LDC 4.2.31.C) to state that the Relief is for residents of the facility only, based upon the Staff Report, the testimony of the applicant, and **SUBJECT** to the following Conditions of Approval:

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Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan, including all notes thereon. No further development shall occur on the site without prior review by and approval of the Board.
2. The Conditional Use Permit shall be exercised as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a Rehabilitation House without further review by and approval of the Board.

The vote was as follows:

Yes: Members Fishman, Howard, Turner, Young, Buttorff, Vice Chair Jarboe, and Chair Allendorf

02:24:24 On a motion by Vice Chair Jarboe, seconded by Member Young, the following resolution was adopted:

Waiver of Landscape Buffer Area (LBA) requirements along eastern property line (LDC 10.2.4):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the applicant proposes to construct a fence meeting LDC screening requirements along the east property line from the rear of the principal structure to the rear property line. Existing fencing is to remain along the east property line for the length of the principal structure, connecting at the front of the property to an existing historic iron fencing across the property frontage. Due to the proximity of the neighboring structure to the east, no landscaping would be possible between the existing structures. The applicant will plant trees the rear yard to fulfill tree canopy requirements, and

WHEREAS, the Board further finds that the waiver will not violate Cornerstone 2020 guidelines because the proposed use of the property will likely have minimal additional impact on existing compatibility with neighboring properties, and

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WHEREAS, the Board further finds that the waiver is being requested in part due to the narrowness of the site. The applicant will provide required tree canopy plantings, and

WHEREAS, the Board further finds that the site is narrow and the LBA would require nearly half the width of the rear yard to be set aside, creating an unnecessary hardship on the applicant; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1092 does hereby **APPROVE** Waiver of Landscape Buffer Area (LBA) requirements along the eastern property line (LDC 10.2.4), based upon the Staff Report, and the stipulation that the waiver is justified because of the need to have outdoor activity space on the property.

The vote was as follows:

Yes: Members Fishman, Howard, Turner, Young, Buttorff, Vice Chair Jarboe, and Chair Allendorf

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CASE NUMBER 17CUP1085

Request:	CUP to permit an off-street parking area with associated reliefs, waivers and variance
Project Name:	4141 Bardstown Rd
Location:	4141 Bardstown Rd
Owner:	4141 Bardstown Rd LLC
Applicant:	4141 Bardstown Rd LLC
Representative:	Bluestone Engineers
Jurisdiction:	Louisville Metro
Council District:	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:

02:26:15 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:

Kendall Cogan, 702 Briar Hill Road, Louisville, KY 40206

Summary of testimony of those in favor:

02:40:47 Kendall Cogan spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:57:43 Beth Jones responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke neither for nor against the request:

Pat Mulvihill, 601 W. Jefferson Street, Louisville, KY 40202

Summary of testimony of those neither for nor against:

02:59:20 Pat Mulvihill stated he was speaking neither for nor against, he just wanted to bring up some of the concerns he has heard. Mr. Mulvihill stated the buffering is a concern. Mr. Mulvihill stated he hopes there will be some discussion of widening Fairland Avenue at least in the commercial area. Mr. Mulvihill responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

Jeanine Duncliffe, 2229 Fairland Avenue, Louisville, KY 40218

Clifford Wayne Gibbs, 2224 Fairland Avenue, Louisville, KY 40218

Laurie Stemler, 2217 Fairland Avenue, Louisville, KY 40218

Summary of testimony of those in opposition:

03:03:33 Jeanine Duncliffe spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

03:09:30 Clifford Wayne Gibbs spoke in opposition of the request. Mr. Gibbs provided pictures to the Board Members of traffic in the area and stated his main concern is the traffic. Mr. Gibbs responded to questions from the Board Members (see recording for detailed presentation).

03:15:27 Laurie Stemler spoke in opposition of the request (see recording for detailed presentation).

REBUTTAL:

03:16:46 Kendall Cogan spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

03:25:04 Board Members' deliberation

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03:33:43 On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution was adopted:

Conditional Use Permit to allow an off-street parking area within an R-4 zoning district (LDC 4.2.39); Relief from LDC 4.2.39.B: Walls, fences or plantings shall be provided in a manner to provide protection for and be in harmony with surrounding residential property; Relief from LDC 4.2.39.C: The minimum front, street side and side yards required in the district shall be maintained free of parking:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1085 does hereby **APPROVE** Conditional Use Permit to allow an off-street parking area within an R-4 zoning district (LDC 4.2.39) with Relief from Items B and C, based upon the testimony heard today, along with the use being supported by the configuration of the lot, building location, and parking, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. All development shall be in accordance with the approved district development plan, including all notes thereon, and with all applicable sections of the Land Development Code (LDC). No further development shall occur on the site without prior review of and approval by the Board of Zoning Adjustment (BOZA).
2. The Conditional Use Permit shall be exercised as proscribed by KRS 100.237 within two years of BOZA approval. If it is not so exercised, the site shall not be used for a Community Service Facility without further review and approval by BOZA.
3. Proof of a completed karst survey must be submitted to PDS staff before issuance of any building permit.
4. No further development or outdoor storage of any kind is permitted within designated stream buffer. Currently existing outdoor storage located within the stream buffer must be discontinued.
5. Existing chain link fencing, including vinyl slats, must be maintained in good condition for as long as the fence remains in place. Any replacement fence constructed in the future must meet LDC requirements for fencing for screening purposes.

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The vote was as follows:

Yes: Members Fishman, Howard, Turner, Young, Buttorff, Vice Chair Jarboe, and Chair Allendorf

03:36:28 On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution was adopted:

Waiver of the property perimeter landscape buffer area (LBA) requirements along the north property line in the R-4 portion of the site (LDC 10.2.4); Waiver of the vehicular use area landscape buffer area (VUA LBA) requirements along the north property line in the R-4 portion of the site (LDC 10.2.10); and Waiver of the vehicular use area (VUA) perimeter planting requirements along the north property line in the R-4 portion of the site (LDC 10.2.11):

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17WAIVER1028 (17CUP1085) does hereby **APPROVE** Waivers #1, #2, and #3, based upon the testimony heard today, along with the use being supported by the configuration of the lot, building location, and parking.

The vote was as follows:

Yes: Members Fishman, Howard, Turner, Young, Buttorff, Vice Chair Jarboe, and Chair Allendorf

03:38:16 On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution was adopted:

Variance to permit an addition to an existing building in a Suburban Marketplace Corridor form district to encroach into the 25 ft. minimum side setback required along a common boundary when a non-residential use abuts a residential zone (LDC 5.3.2.C.2.b):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as

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the common boundary in question would meet setback requirements if the entirety of the site were zoned for its actual use, as is normally the case, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the addition in question is an extension of an existing structure and results in a street side setback consistent with adjoining structures, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as it maintains the appropriate setbacks from the public right-of-way and the neighboring residential use, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the addition in question is an extension of an existing structure, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances in that the parcel has dual zoning, creating a change in zone within the boundaries of the site, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring a setback that would not normally be required within a single site if not for the existing dual zoning; now therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1062 (17CUP1085) does hereby **APPROVE** Variance to permit an addition to an existing building in a Suburban Marketplace Corridor form district to encroach into the 25 ft. minimum side setback required along a common boundary when a non-residential use abuts a residential zone (LDC 5.3.2.C.2.b) **(Requirement 25 ft., Request 0 ft., Variance 25 ft.)**, based upon the Staff Report and conclusions.

The vote was as follows:

Yes: Members Howard, Turner, Young, Buttorff, Vice Chair Jarboe, and Chair Allendorf

No: Member Fishman

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ADJOURNMENT

The meeting adjourned at approximately 4:52 p.m.

Chair

Secretary