

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

FEBRUARY 15, 2016

A meeting of the Louisville Metro Board of Zoning Adjustment was held at 8:30.A.M. on Monday, February 15, 2016, 514 West Liberty Street, Old Jail Building, Old Jail Court Room, Louisville, Kentucky.

Members present:

Betty Jarboe, Vice Chairperson

Members absent:

Mike Allendorf, Chairperson
Rosalind Fishman, Secretary
Dean Tharp
Paul Bergmann
Lester Turner

Staff members present:

Emily Liu, Director, Planning & Design Services
Joe Reverman, Assistant Director Planning & Design Services
John Carroll, Legal Counsel
Steve Hendrix, Planning Supervisor
Jon Crumble, Planning Coordinator
Laura Mattingly-Humphrey, Planner I
Joel Dock, Planner I
Ross Allen, Planner I
Beth Stevenson, Management Assistant

Others present:

Jay Luckett, Planning Technician for Code Enforcement

A quorum of the Board was not present for this meeting. The Member who was present will hear some of the scheduled cases as a hearing officer, the record of these cases will be closed and they will be deferred to business session of the next regularly scheduled meeting of the Board on March 7, 2016 with possible recommendations from the hearing officer. The remaining cases will be rescheduled and re-noticed for March 7, 2016 under Public Hearing Items/New Business.

The following cases were considered:

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APPROVAL OF MINUTES

FEBRUARY 1, 2016 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

The February 1, 2016 meeting minutes were not approved due to lack of a quorum. These minutes will be placed on the March 7, 2016 agenda for approval.

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NEW BUSINESS

CASE NO. 15VARIANCE1089

Request: Variances from the Land Development Code to allow a reduction in the private yards of the resultant lots of minor subdivision Case No. 15MINORPLAT1057.

Project Name: Two L Properties, LLC

Location: 1662 W. Kentucky Street

Owner: Two L Properties, LLC
R. Lynn Biggers
2800 West Riley Road
Floyd Knobs, IN 47119

Applicant: Same as owner

Attorney: Bert M. Edwards
119 S. 7th Street, #200
Louisville, KY 40202

Representative: Alan Hartley Land Surveys
Alan Hartley
3512 Burkland Blvd.
Shepherdsville, KY 40165

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 6—David James

Staff Case Manager: Joel P. Dock, Planner I

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

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

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NEW BUSINESS

CASE NO. 15VARIANCE1089

Agency Testimony:

Staff Case Manager, Joel Dock discussed the case summary, standard of review and staff analysis from the staff report. He said the Development Review Committee approved the minor subdivision request on February 3, 2016. The applicant is requesting a variance for each lot (Tact 1 and 2) because the lots do not meet the minimum area required for private yards in the Traditional Neighborhood form district. Mr. Dock said the requests meet the standard of review under the Land Development Code requirements.

The following spoke in favor of this request:

Bert Edwards, Attorney.

Summary of testimony of those in favor:

Bert Edwards, the applicant's attorney, said he is present to answer any questions from the Board.

The following spoke neither for nor against the request:

No one.

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

No one.

The following spoke in opposition to this request:

No one.

Summary of testimony of those in opposition:

No one.

Deliberation:

The applicant's representative was present; and there was no one else who testified. Due to the lack of a quorum, Member Jarboe stated that the record of this case is closed and it will be deferred to business session on March 7, 2016.

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the February 15, 2016 public hearing proceedings.

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NEW BUSINESS

15VARIANCE1087

Request: Variance from the Land Development Code to allow the construction of a private access easement in the Protected Waterway Buffer of Little Goose Creek.

Project Name: 4319 Barbour Lane

Location: 4319 Barbour Lane

Owner: CFA Sunnyview, LLC
Kendall Cogan, Member
9913 Shelbyville Road
Louisville, KY 40223

Applicant: Same as Owner

Representative: Bluestone Engineers, PLLC
Chris Crumpton, PE
3703 Taylorsville Road, Ste. 205
Louisville, KY 40220

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 16—Kelly Downard
Staff Case Manager: Joel P. Dock, Planner I

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

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

Agency Testimony:

Staff Case Manager, Joel Dock discussed the case summary, standard of review and staff analysis from the staff report. He said the applicant is requesting a variance for the construction of a private access easement and driveway in the

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Protected Waterway Buffer of Little Goose Creek to serve five single family lots (15MINORPLAT1166). He said the request might adversely affect the protected waterway. Member Jarboe asked if he thinks they should relocate the access easement/driveway. Mr. Dock said he thinks this is the least intrusive. Mr. Dock said the applicant agreed to submit a Geotechnical Report; and that the Board should include this as a condition of approval.

The following spoke in favor of this request:

Chris Crumpton, the applicant's representative.

Kendall Cogan, the owner and applicant.

Summary of testimony of those in favor:

Chris Crumpton, the applicant's representative, said they want to utilize the existing access point for minimal disturbance. He said his client would be willing to plant additional trees for the buffer.

Member Jarboe asked if it would be better to reduce the buildable lots to 4 instead of 5. Mr. Crumpton said it wouldn't make much of a difference.

The following spoke neither for nor against the request:

No one.

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

No one.

The following spoke in opposition to this request:

Richard Kovats, 4418 Deepwood Drive, Louisville, KY 40241; who submitted his testimony and a topographical plan into the record.

Trevor Cravens, 4422 Deepwood Drive, Louisville, KY 40241.

Stanley S. Levinson, 7386 Wolfspring Trace, Louisville, KY 40241.

Keene Taylor, 7384 Wolfspring Trace, Louisville, KY 40241.

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Summary of testimony of those in opposition:

Richard Kovats said he works in the construction business; and said that water is like a raging rapid coming through Tract 2, and opposes anything that opens up this access. He said steep slopes, drainage and erosion are big concerns of his.

Trevor Cravens said this is classified as a blue line stream and asked if the Army Corps of Engineers regulates it. Mr. Dock said the Army Corps of Engineers establish Solid-Blue Line and Perennial stream, but a permit from them is not required. Member Jarboe asked why. Mr. Dock said it is not in the Land Development Code. Member Jarboe asked Mr. Dock if this was an MSD easement for flood protection. Mr. Dock said it could have been a water treatment plant, but should ask the applicant.

Stanley S. Levinson said he's a professor at U of L and a consultant for the VA. He said he lives in the area and said he has cracks and leaks in his basement from flooding and has been told to install a sump pump. He said he built a channel in front of his house to protect his property. He said the road is covered in water during a regular rain; and dangerous during a heavy rain. Mr. Levinson said he would like to see an independent assessment of the drainage if these houses were built.

Keene Taylor presented a PowerPoint presentation including a video of Barbour Lane when heavy rain occurs. He said the water comes from Greensprings and another subdivision; and that it floods in 2-3 places every time. He said the State Highway Department replaces the road as needed. Mr. Taylor said the Board should not approve this variance, especially with 5 more houses and driveways creating more drainage problems.

Richard Kovat said this proposal could set a precedent.

Rebuttal:

Kendall Cogan, the applicant, said the road with the flooding shown is not their access road. He said they have always planned to build 5 homes; and that people who live in the area enjoy nice scenic views. He said the property has been in his family for many years; and had an agreement with MSD that once their plant was dismantled would build residential homes. Mr. Cogan said his engineer has been meeting with MSD who are requiring underground detention basins; and said the water runoff will be better once they develop. He said Wolf Creek homeowners were in favor of their proposal; and that they'll be leaving

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landscaping. Mr. Cogan said he wants to do something tasteful and enhance the neighborhood.

Member Jarboe asked about the Geotechnical Report. Mr. Cogan said he's already started on this.

Deliberation:

Testimony was taken from the applicant and opposition. Due to the lack of a quorum, Member Jarboe stated that the record of this case is closed and it will be deferred to business session on March 7, 2016.

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the February 15, 2016 public hearing proceedings.

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NEW BUSINESS

15VARIANCE1001

Request: Variance from the Land Development Code to allow a proposed garage to encroach into the side and rear yard setback.

Project Name: 1627 Ruth Avenue

Location: 1627 Ruth Avenue

Owner: Mary Anne Hauck
1904 Milburt Drive
Louisville, KY 40223

Applicant: Vincent Abell Contracting
Brad Abell
4902 Meadow Creek Court
Crestwood, KY 40014

Representative: William Welch Architect
Barbara Quinn
961 Baxter Avenue
Louisville, KY 40204

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 8—Tom Owen

Staff Case Manager: Ross Allen, Planner I

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

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

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NEW BUSINESS

15VARIANCE1001

Agency Testimony:

Staff Case Manager, Ross Allen discussed the case summary, standard of review and staff analysis from the staff report. He said the owner told him she would not be attending today due to the weather.

The following spoke in favor of this request:

No one.

Summary of testimony of those in favor:

No one.

The following spoke neither for nor against the request:

No one.

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

No one.

The following spoke in opposition to this request:

No one.

Summary of testimony of those in opposition:

No one.

Deliberation:

Member Jarboe stated that the applicant was not present to testify due to inclement weather, this case will be rescheduled and re-noticed and placed at the beginning of new business for the public hearing agenda on March 7, 2016.

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NEW BUSINESS

16VARIANCE1000

Request: Variances to allow parking and an existing structure to encroach into required yards.

Project Name: Glenmary Pointe Apartments

Location: 11304 Professional Park Drive

Owner: Pleasants Mason Group, LLC
Daniel M. Perkins
6001 Claymont Village Drive, Unit 7
Crestwood, KY 40014

Applicant: Orthober Custom Homes
Jason Orthober
P.O. Box 436964
Louisville, KY 40253

Attorney: Dinsmore & Shohl
Cliff Ashburner
101 S. Fifth Street, #2500
Louisville, KY 40202

Representative: BlueStone Engineers, PLLC
Christopher T. Crumpton, PE
3703 Taylorsville Road, Suite 205
Louisville, KY 40220

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 22—Robin Engel

Staff Case Manager: Laura Mattingly-Humphrey, Planner I

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

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

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

Agency Testimony:

Staff Case Manager, Laura Mattingly-Humphrey discussed the case summary, standard of review and staff analysis from the staff report. She said the applicant is proposing the construction of nine, two-story apartment buildings on Tract 1; and 3 new tracts where there are existing office buildings. The required waivers and development plan will be heard by DRC on Feb. 17, 2016; and a condition of approval should be included to state that a Joint Parking Agreement will be obtained to satisfy the required parking on Tract 1. A minor plat to create the new tracts has been submitted and is currently under staff review.

The following spoke in favor of this request:

Chris Crumpton.

Summary of testimony of those in favor:

Chris Crumpton, the applicant's representative, said this property currently is a failed office project that never transpired. He said the bank is requiring fee simple lots.

The following spoke neither for nor against the request:

No one

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

No one.

The following spoke in opposition to this request:

No one.

Summary of testimony of those in opposition:

No one.

Deliberation:

The applicant's representative testified and no one else was present as an interested party. Due to the lack of a quorum, Member Jarboe stated that the

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record of this case is closed and it will be deferred to business session on March 7, 2016.

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NEW BUSINESS

15CUP1042

Request: Conditional Use Permit to allow off-street parking in an OR-1 zoning district; and landscape waivers.

Project Name: Texas Roadhouse

Location: 3332 Outer Loop

Owner: Gilbert & Wilma Rogerson
4313 Saratoga Hill Road
Louisville, KY 40299

Applicant: Texas Roadhouse Holdings, LLC
Caitlin Kincaid
6040 Dutchmans Lane
Louisville, KY 40205

Attorney: Texas Roadhouse Holdings, LLC
Sean Renfro, Esq.
6040 Dutchmans Lane
Louisville, KY 40205

Representative: Greenberg Farrow
Marisa Kolman
21 S. Evergreen Avenue, Suite 200
Arlington Heights, IL 60005

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 13—Vicki Welch

Staff Case Manager: Jon Crumbie, Planning Coordinator

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

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NEW BUSINESS

15CUP1042

case file maintained at the Planning and Design Services offices located at 444 S. 5th Street).

Agency Testimony:

Staff case manager, Jon Crumbie, told the applicant not to come to the hearing today, due to lack of a quorum. He said he will re-notice this hearing for March 7, 2016.

The following spoke in favor of this request:

No one.

Summary of testimony of those in favor:

No one.

The following spoke neither for nor against the request:

No one.

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

No one.

The following spoke in opposition to this request:

No one.

Summary of testimony of those in opposition:

No one.

Deliberation:

Member Jarboe stated since the applicant was told not to attend the hearing due to the lack of a quorum, this case will be rescheduled and re-noticed and placed at the beginning of new business for the public hearing agenda on March 7, 2016.

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The meeting adjourned at 10:01 a.m.

CHAIRPERSON

SECRETARY