

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

May 7, 2018

A meeting of the Louisville Metro Board of Zoning Adjustment was held on May 7, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Rosalind Fishman, Vice Chair
Lula Howard, Secretary (left at approximately 3:00 p.m.)
Lester Turner, Jr.
Richard Buttorff
Kimberly Leanhart

Members Absent:

Mike Allendorf, Chair
Dwight Young

Staff Members Present:

Emily Liu, Planning & Design Director (left at approximately 3:00 p.m.)
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Steve Hendrix, Planning & Design Coordinator
Jon Crumbie, Planning & Design Coordinator
Joel Dock, Planner II
Dante St. Germain, Planner I
Beth Jones, Planner II
Paul Whitty, Legal Counsel (arrived at approximately 1:36 p.m.; left at approximately 4:00 p.m.)
Travis Fiechter, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

APRIL 30, 2018 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:02:53 On a motion by Member Buttorff, seconded by Member Howard, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on April 30, 2018.

The vote was as follows:

Yes: Members Buttorff, Turner, Howard, Leanhart, and Vice Chair Fishman

Absent: Member Young, and Chair Allendorf

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PUBLIC HEARING

Case Number 18VARIANCE1031

Request:	Variances for freestanding sign height and size and for two entrance walls to exceed the maximum height; waiver for changing image sign
Project Name:	Derby City Gaming
Location:	4520 Poplar Level Road
Owner:	Churchill Downs Incorporated
Applicant:	Churchill Downs Incorporated
Representative:	Mike Hill, Land Design & Development Inc.
Jurisdiction:	Louisville Metro
Council District:	21—Vitalis Lanshima
Case Manager:	Steve Hendrix, Planning 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:

00:04:26 Steve Hendrix presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Mike Hill, Land Design and Development, 503 Washburn Avenue, Louisville, KY 40222

Summary of testimony of those in favor:

00:08:59 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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00:23:48 Board Members' deliberation

00:26:17 On a motion by Member Howard, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, the applicant's justification, and the applicant's presentation with the elevations of the sign, was adopted:

Variance from Land Development Code 5.2.7.B to allow a proposed freestanding LED changing image sign to exceed the maximum height:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance for the sign height will not adversely affect the public health, safety, or welfare, but will allow unfamiliar patrons easier identification of the entrance, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the previous sign has been at this location for several years and was approximately 4 feet higher than the sign being proposed, and

WHEREAS, the Board further finds that the proposed height of the new sign will not cause a hazard or nuisance to the public; since the new sign has a similar height and the existing sign has been at this location for several years without any known negative impact, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations, but allows for an updated and more attractive signage, and

WHEREAS, the Board further finds that the requested variance arises from having a limited amount of frontage along Poplar Level Road and the need for entrance to be easily found, 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 limiting the ability to adequately advertise not only the business, but its entrance, 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 regulations, since this is part of the revitalization of this facility, and

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WHEREAS, the Board further finds that this variance will not adversely affect the public health, safety or welfare because the design of the sign is such that will safely alert motorists to the location of the facility, and

WHEREAS, the Board further finds that this variance will not alter the essential character of the general vicinity because the previous sign that is in this same location is of a similar height and area to the proposed sign and has existed for many years without any negative impacts on the area, and

WHEREAS, the Board further finds that this variance will not cause a hazard or a nuisance to the public because it will safely alert motorists of the location of the facility. A smaller sign would be difficult to notice, and the facility is located off the roadway behind other properties so additional signage size is necessary for safe wayfinding, and

WHEREAS, the Board further finds that this variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the applicant is simply asking permission to install better designed, more attractive signage than the similarly sized previous sign, and

WHEREAS, the Board further finds that special circumstances in this case include the fact that this property is a flag lot and the facility is set back off Poplar Level Road a significant distance as well as located behind structures on neighboring industrial properties. Furthermore, this request is only needed because of the required conditional use permit for the race track facility, which has more restrictive signage requirements. The proposed signage complies with the Suburban Workplace Form District signage requirements, and

WHEREAS, the Board further finds that the strict application of the applicable regulations would require the applicant to only have a 10' tall, 100 square foot sign, which would be ineffective in safely notifying motorists of the location of the facility, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought. The applicant is proposing to develop the site after the adoption of the applicable regulation; and

Variance from Land Development Code 4.2.7.B to allow a proposed freestanding LED changing image sign to exceed the maximum area:

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested sign area will not adversely affect the public health, safety or welfare, but will help the traveling public locate the entrance to Derby City Gaming, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity, since the new signage will be replacing a sign that was similar in size and had been there for some time, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public, since the new sign will be similar in size to the previous freestanding sign, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations, since the size of the sign helps the public determine the location of the entrance, and

WHEREAS, the Board further finds that the requested variance does arise from special circumstances, since there is only 116 feet of street frontage along Poplar Level Road, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship not only on the applicant, but potential patrons as well, 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 regulations, but are part of the new gaming facility; and

Variance from Land Development Code 4.4.3.A.1.a.i to allow the entrance walls to be 10 feet at their highest point:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested will not adversely affect the public health, safety or welfare, since the entrance wall is located well behind the property line and the entrance to the new facility; therefore not a sight distance concern, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity, since the brick wall will be painted white and enhance the street view, and

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WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public, but the white painted brick wall will help visitors identify the entrance location, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations, since the brick wall height helps bring attention to the entrance, and

WHEREAS, the Board further finds that the requested variance does arise from special circumstances, since there is a limited amount of street frontage and the proposed wall helps identify the entrance, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship upon the general public, since the heightened wall helps identify the entrance, 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 regulations, but due to the limited amount of street frontage along Poplar Level Road, and

WHEREAS, the Board further finds that this variance will not adversely affect the public health, safety or welfare it will actually shield adjacent properties from those entering and exiting the facility, and

WHEREAS, the Board further finds that this variance will not alter the essential character of the general vicinity because this is an industrial/commercial corridor and the proposed entrance design will help to improve the appearance of the area, and

WHEREAS, the Board further finds that this variance will not cause a hazard or a nuisance to the public, in fact this layout will help to safely guide pedestrians and motorists to and from the facility, and

WHEREAS, the Board further finds that this variance will not allow an unreasonable circumvention of the requirements of the zoning regulations. These walls will really function as if they are portion of a signature entrance, but because this is not a subdivision the Land Development Code does not consider them to be signature entrances. Signature entrances can be up to 14' tall, and

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WHEREAS, the Board further finds that special circumstances in this case include the fact that this property is a flag lot and has very limited area to provide the desired entry walls, and

WHEREAS, the Board further finds that the strict application of the applicable regulations would not allow the applicant to adequately screen their entrance from view from the adjacent properties, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation 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 18Variance1031 does hereby **APPROVE** Variance from Land Development Code 4.2.7.B to allow a proposed freestanding LED changing image sign to exceed the maximum height and area (**Requirement 10 ft. maximum height/100 sq. ft., Request 24 ft./168.6 sq. ft., Variance 14 ft./68.6 sq. ft.**), and Variance from Land Development Code 4.4.3.A.1.a.i to allow the entrance walls to be 10 feet at their highest point (**Requirement 4 ft., Request 10 ft., Variance 6 ft.**).

The vote was as follows:

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

00:28:22 On a motion by Member Howard, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, the applicant's waiver justification, and the applicant's booklet with the elevations, was adopted:

Waiver from Land Development Code 8.2.1.D.4.b to allow the changing image sign to be 88.9% of the freestanding sign instead of 60%:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners, since the entrance sign

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will be located on Poplar Level Road which is a major arterial and surrounded by M-2 zoned property. A Thornton's is north of the entrance and a proposed storage facility is south, and

WHEREAS, the Board further finds that the waiver will not violate specific guidelines of Cornerstone 2020; since the proposal will still be required to mitigate any adverse impacts on nearby properties, (Guideline 3. Compatibility, Policy 8 Light and Visual Impacts, Policy 9 and Policy 28. Signs, since the proposal promotes a sign size and height adequate for effective communication and conducive to motor vehicle safety, and

WHEREAS, the Board further finds that the extent of waiver of the regulation is the minimum necessary to adequately identify the entrance to Derby City Gaming, and

WHEREAS, the Board further finds that the applicant has incorporated other design measure that exceed the minimums of the district and compensate for the waiver such as the entrance wall, the wooden fence and the overall appearance along this portion of Poplar Level Road, and

WHEREAS, the Board further finds that the waiver will not adversely affect the adjacent property owners because the properties this sign will have a visual impact on are commercial and industrial properties that have their own signage along the Poplar Level Road corridor, and

WHEREAS, the Board further finds that the development, even with the waivers will still meet the intent of the Comprehensive Plan in that the sign is intended to provide safe wayfinding for motorists and pedestrians without being a nuisance to area property owners. All other Land Development Code requirements for changing image signage will be complied with, and

WHEREAS, the Board further finds that the applicant is requesting the minimum necessary relief that will allow the construction of the nicest signature entrance and signage within the Poplar Level Road corridor, and

WHEREAS, the Board further finds that the high-quality design of the proposed signage and entrance features will help to improve the aesthetic appearance of this section of Poplar Level Road; now therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1031, does hereby **APPROVE** Waiver from Land Development

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Code 8.2.1.D.4.b to allow the changing image sign to be 88.9% of the freestanding sign instead of 60%.

The vote was as follows:

Yes: Members Buttorff, Turner, Howard, Leanhart, and Vice Chair Fishman

Absent: Member Young, and Chair Allendorf

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CASE NUMBER 18VARIANCE1034

Request: Variance to allow a fence in the street side yard setback to exceed 4 feet in height
Project Name: 6647 Sylvania Road Fence
Location: 6647 Sylvania Road
Owner: Jesus Alvarez
Applicant: Jesus Alvarez
Representative: Jesus Alvarez
Jurisdiction: Louisville Metro
Council District: 12 – Rick Blackwell
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:

00:30:30 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:

Jesus Alvarez, 6647 Sylvania Road, Louisville, KY 40272

Summary of testimony of those in favor:

00:36:54 Jesus Alvarez 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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00:40:01 Board Members' deliberation

00:42:15 On a motion by Member Leanhart, seconded by Member Howard, the following resolution, based upon the presentation by the owner, the Standard of Review and Staff Analysis, and the variance justification, 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 fence is set back from the corner at the intersection and will not obstruct sight lines for turning vehicles, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as another, similar fence was recently approved by the Board for the immediate vicinity, making the proposed fence in-character with the existing nearby fence, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the fence is set back from the corner, and will not create a hazardous situation for turning vehicles, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the fence is not proposed to extend into the front yard of the property, and

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

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by preventing the applicant from obtaining privacy in the rear yard of 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 as the applicant is requesting the variance and has not begun construction, and

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WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1034 does hereby **APPROVE** Variance from Land Development Section 4.4.3.A.1.a.i to allow a fence in the street side yard setback to exceed 4 feet in height (**Requirement 4 ft., Request 6 ft., Variance 2 ft.**).

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1035

Request: Variance to allow a structure to encroach into the required rear yard setback
Project Name: Big Bar Expansion
Location: 1202 Bardstown Road
Owner: Chris Cook Holdings LLC
Applicant: Kevin Bryan
Representative: Kevin Bryan
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
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:

00:44:30 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:

Ben Palmer-Ball, 8203 Old Westport Road, Louisville, KY 40222
Kevin Bryan, 961 Schiller Ave., Louisville, KY 40204 (was sworn in, but did not speak in favor)
Terra Long, 2220 Weber Ave., Louisville, KY 40205

Summary of testimony of those in favor:

00:56:40 Ben Palmer-Ball spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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01:02:12 Terra Long spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:

Herman Praszkie, 1355 Bardstown Road, #217, Louisville, KY 40204

Summary of testimony of those in opposition:

01:03:49 Herman Praszkie spoke in opposition of the request in regard to nuisance, noise, and the retaining wall. Mr. Praszkie responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

01:24:22 Kevin Bryan spoke in rebuttal (see recording for detailed presentation).

01:25:00 Ben Palmer-Ball spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

01:29:26 Board Members' deliberation

01:35:07 On a motion by Member Howard, seconded by Member Buttorff, the following resolution, based upon the applicant's presentation, the Standard of Review and Staff Analysis, the applicant's variance justification, and the applicant's site plan and elevations, 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 there is no public access to the rear of the property, and the proposed egress stair will provide safety to patrons of the establishment, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposed renovations have received Overlay approval, and

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WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed encroachment is into a rear yard with no alley and no public access, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the lot is unusually narrow with a correspondingly narrow structure, creating a situation in which the only ways to expand are vertically and to the rear, 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 of an unusually narrow dimension and contains a structure which is very small for a commercial establishment, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by rendering the needed expansion of the existing building infeasible, while protecting a rear yard that does not abut an alley, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not begun construction, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1035 does hereby **APPROVE** Variance from Land Development Code Table 5.2.2 to allow a structure to encroach into the required rear yard setback (**Requirement 5 ft., Request 0 ft., Variance 5 ft.**), **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. There will be an emergency egress only for the door at the rear of the property.
2. There shall be a gate installed at the top of the steps which shall only be opened from the inside.

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3. Construction of the steps will be poured concrete.

The vote was as follows:

Yes: Members Buttorff, Howard, Leanhart, and Vice Chair Fishman

No: Member Turner

Absent: Member Young, and Chair Allendorf

01:37:21 Meeting was recessed.

01:37:45 Meeting was reconvened.

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CASE NUMBER 18VARIANCE1012

Request: Variance from the required side yard setback and the total side yard setback
Project Name: 224 Norbourne Boulevard
Location: 224 Norbourne Boulevard
Owner: Ladonna and Donald Goodman
Applicant: Patton Construction
Representative: Steve Porter
Jurisdiction: City of St. Matthews
Council District: 26 – Brent Ackerson
Case Manager: Beth Jones, AICP, Planner II 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:

01:37:59 Beth Jones spoke in favor of the request 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:

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40209

Summary of testimony of those in favor:

01:44:36 Steve Porter 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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CASE NUMBER 18VARIANCE1012

01:47:48 Board Members' deliberation

01:48:21 On a motion by Member Turner, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the variance justification statement, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that many properties in the vicinity have detached garages close to the side yard property lines, although it is not apparent whether or not they maintain the required side yard, 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 setback of the proposed structure will be smaller at the rear but larger at the front, nearest the adjoining residential structure, and

WHEREAS, the Board further finds that the property is of an irregular shape but the dimension of the rear property line is consistent with the majority of sites in the vicinity, and

WHEREAS, the Board further finds that the existing lot was in place prior to the zoning regulation from which relief is being sought, and

WHEREAS, the Board further finds that the location of the existing garage currently does not comply with the side yard setback requirement for its entire length. The new location will partially comply and partially not, and

WHEREAS, the Board further finds that the new location will appear to anyone in the neighborhood to be the same as before. A change to a 2-car garage will allow more parking in a garage instead of in a driveway or on the street. Therefore, it is a benefit to the neighborhood, and

WHEREAS, the Board further finds that the variance will not affect any members of the public. It is in the rear yard of the property owner, and

WHEREAS, the Board further finds that the current location of the old garage violates the requirements even more than the new one, and

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WHEREAS, the Board further finds that the lot is narrower in the rear making it very short on space to add a 2-car garage with adequate driveway access, and

WHEREAS, the Board further finds that this is a necessary upgrade to the property to replace an old, collapsing garage. This will improve the value of the subject property and its neighbors, and

WHEREAS, the Board further finds that the old garage was built when the house was constructed many years ago. It has since become obsolete and in collapsing condition; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1012 does hereby **APPROVE** Variance from City of St. Matthews Development Code 4.7.C.2.b to permit a structure to encroach into a required side yard and to reduce the total side yard requirement (**Minimum side yard Requirement 5 ft., Request 1 ft., Variance 4 ft.**), (**Minimum total side yard Requirement 10 ft., Request 6 ft. 5 in., Variance 3 ft. 7 in.**).

NOTE: Member Howard left at approximately 3:00 p.m.

The vote was as follows:

Yes: Members Buttorff, Turner, Leanhart, and Vice Chair Fishman

Absent: Members Young, Howard, and Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 17CUP1035

Request:	Conditional Use Permit to allow outdoor alcohol sales and consumption in a C-1 zoning district
Project Name:	Hooked on Frankfort
Location:	3202 Frankfort Avenue
Owner:	Sonyajean, Inc.
Applicant:	EC Design
Representative:	EC Design
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Beth Jones, AICP, Planner II

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

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

Agency Testimony:

01:50:45 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:

Charles Podgursky, 7321 New LaGrange Road, #111, Louisville, KY 40222
Robert Alvey, 5803 Prince William Street, Louisville, KY 40202
Eric Claypool, 8801 Hermitage Ct., Louisville, KY 40242

Summary of testimony of those in favor:

01:59:03 Charles Podgursky spoke in favor of the request (see recording for detailed presentation).

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02:00:24 Robert Alvey spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:01:17 Eric Claypool spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:03:13 Robert Alvey responded to questions from the Board Members (see recording for detailed presentation).

02:03:33 Eric Claypool 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.

02:05:17 Board Members' deliberation

02:05:24 Note: Beth Jones noted a change to the technical review in the Staff Report to change the number of parking spaces from ten to five. Ms. Jones stated she also wanted to point out that this Conditional Use Permit is for outdoor alcohol sales and consumption and/or live music, and the applicant has specifically chosen to exclude the live music (see recording for detailed presentation).

02:09:30 On a motion by Member Turner, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, was adopted:

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

WHEREAS, the Board further finds that the proposal uses an existing building that is compatible with surrounding land uses. Potential issues regarding noise, odor and lighting were discussed at the neighborhood meeting; the applicant is not requesting relief from any requirements related to these issues, and

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WHEREAS, the Board further finds that The proposed development does not substantially increase demands on public infrastructure and facilities. Pursuant to LDC 9.1.16.A., a parking waiver request for three spaces has been approved, and

WHEREAS, the Board further finds that:

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 boundary will be defined by the deck structure and a privacy 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. **The proposal is not located within the public right-of-way and has received preliminary approval from Transportation Planning.**
- 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 proposal includes a barrier that meets the requirements of 4.2.41.C. and D.**
- 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. **After discussions with the adjoining single-family residential property owner, the applicant will install a wood fence of the required height that matches the property owner's own wood fence across the alley.**
- 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

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- 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 CUP request does not include live outdoor entertainment.**
- 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 17CUP1035 does hereby **APPROVE** Conditional Use Permit for outdoor alcohol sales and consumption for a restaurant in the C-1 zoning district in accordance with Land Development Code 4.2.41, **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 outdoor alcohol sales and consumption for a restaurant in the C-1 zoning district without further review and approval by BOZA.
- 3. The materials and design of the proposed deck and privacy fencing shall be substantially the same as depicted in renderings as presented at the BOZA hearing on May 7, 2018.
- 4. No lighting for the outdoor deck area will be placed above the height of the privacy fence and no light source shall be visible off-site.
- 5. No live music on the premises.

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6. Patio music shall not be audible beyond the premises.
7. Hours of operation shall cease at 10 p.m. with the exception of Saturday, which shall cease at 11:00 p.m.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 18CUP1010

Request:	Conditional Use Permit to allow short term rental of a dwelling unit not the primary residence of the host in an R-6 zoning district
Project Name:	Short Term Rental
Location:	1218 Lexington Rd
Owner:	Good Measure Homes LLC
Applicant:	Michael Stevens
Representative:	Michael Stevens
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:

02:12:41 Beth Jones presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Michael Stevens, 1610 Forest Hill Dr., Louisville, KY 40205

Summary of testimony of those in favor:

02:15:21 Michael Stevens 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.

02:23:33 Board Members' deliberation

02:23:49 On a motion by Member Leanhart, seconded by Member Buttorff, the following resolution, based upon Standard of Review and Staff Analysis, and the owner's presentation, was adopted:

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

WHEREAS, the Board further finds that under appropriate management, a short-term rental use can be compatible with surrounding development. No exterior alterations to the existing structure or site are proposed, and

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. The proposal does not appear to create substantial additional requirements for the site, and

WHEREAS, the Board further finds that:

A short term rental of dwelling unit that is not the primary residence of the host in a 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 R-8A district and a short term rental of any dwelling unit in a TNZD district may be allowed upon the granting of a Conditional Use Permit. In addition to any conditions of approval, a short term rental and its host shall meet the following requirements:

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **According to the applicant,**

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the dwelling unit has two bedrooms; LDC regulations permit up eight guests.

- D. The dwelling unit shall be a single-family residence, duplex or condominium. This provision shall not be waived or adjusted. **According to the applicant, the existing structure is a single-family dwelling.**
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **The site has 25 feet of property frontage on Lexington Road and Fern Street at the rear. LDC regulations credit the site with one on-street parking space on each street frontage. Four additional private parking spaces are available at the rear of the site, accessible via Fern Street.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1010 does hereby APPROVE Conditional Use Permit to allow short term rental of a dwelling unit not the primary residence of the host, **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

- 1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not

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registered with Develop Louisville and with the Revenue Commission within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.

2. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.

The vote was as follows:

Yes: Members Buttorff, Turner, Leanhart, and Vice Chair Fishman

Absent: Members Young, Howard, and Chair Allendorf

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CASE NUMBER 18CUP1030

Request:	Modified Conditional Use Permit to allow a daycare center to operate in an R-6 zoning district
Project Name:	Modification of Conditional Use Permit
Location:	1933 W. Madison Street
Owner:	Love & Prayer Childcare LLC
Applicant:	Love & Prayer Childcare LLC
Representative:	Love & Prayer Childcare LLC
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:

02:25:43 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:

Lishell Duncan, 1933 W. Madison Street, Louisville, KY 40203

Summary of testimony of those in favor:

02:29:15 Lishell Duncan 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.

02:32:10 Board Members' deliberation

02:32:44 On a motion by Member Buttorff, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, and the owner's testimony, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the modification is consistent with Comprehensive Plan policies regarding use as a daycare center, and

WHEREAS, the Board further finds that the modification makes no changes to the existing site or structure, and

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. The proposal will not create substantial additional requirements for the site, with the possible exception of parking, and

WHEREAS, the Board further finds that:

Day Care Facilities may be allowed in the R-R, R-E, R-1, R-2, R-3, U-N, R-5A, R-5B, R-6, and R-7 districts upon the granting of a Conditional Use Permit and in compliance with the listed requirements.

- A. Signs - There shall be allowed one non-illuminated sign identifying the name and use, which sign shall be limited in size to four square feet and be placed on the building. **The applicant is proposing no changes to existing conditions.**
- B. Residential Structure - The structure shall remain or shall be constructed so that the exterior design and ornamentation is residential in character and compatible with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential (except for the sign). **The applicant is proposing no changes to existing conditions.**

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- C. Alterations or Improvements to the Structure - Where such a use is permitted in a structure which has been used as a residence, the permittee shall make no substantial alterations or improvements to the structure which would impair the structure's use as a residence at a later time. **The applicant is proposing no changes to existing conditions.**
- D. On-Site Drop-off and Pick-up Area - An on-site area shall be provided where passengers from automobiles may safely exit the automobile and enter the building and vice versa. The design of this area must be approved by the appropriate agency responsible for transportation planning. **The property frontage is set aside for pick-up/drop-off by users of the facility.**
- E. Parking Spaces - The appropriate number of parking spaces shall be provided for members of the day care center staff. The number of parking spaces required pursuant to this section shall be determined by the Board of Zoning Adjustment, and may thereafter be modified by the Board of Zoning Adjustment by petition from the owner of the premises granted a Conditional Use Permit or upon recommendation from the zoning inspector or other authorized personnel after an annual inspection of the premises or other such inspection. The parking layout must be approved by the appropriate agency responsible for transportation planning. **Available on- and off-street parking and transit service is sufficient to accommodate the maximum staff of eight per shift.**
- F. Drainage Control - The development plan shall have the approval of the appropriate agency responsible for surface drainage control. **The applicant is proposing no changes to existing conditions.**
- G. All buildings and structures shall conform to the requirements of the zoning and form district in which they are located. **The applicant is proposing no changes to existing conditions.**
- H. Fence - A fence with a minimum height of 4 feet shall be erected around the outdoor play area. **The applicant is proposing no changes to existing conditions.**
- I. Alterations or Improvements to the Property – Where such a use is permitted on a lot with an existing residential structure; the residential character of the lot shall not be disturbed by exterior changes to the property that are visible from the public street. Off-street parking shall not

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be located within the front and/or street-side yards. Drop-off and pick-up shall not be located in front yard and/or street-side yard of the existing residential structure, except for driveways approved by Metro Public Works. **The applicant is proposing no changes to existing conditions.**

- J. Conditional use permits for Day Care Facilities in R-4 and R-5 zoning districts issued prior to the effective date of this ordinance (March 9, 2011) may continue to operate as authorized under the approved conditional use permit. Upon request by an applicant, such conditional use permits may be modified in any manner the Board determined, in its discretion, to be appropriate. **As the site is located in an R-6 zone, this condition does not apply;** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1030 does hereby **APPROVE** Modification of Conditional Use Permit to allow a daycare center to operate in an R-6 zoning district (LDC 4.2.19), **SUBJECT** to the following Conditions of Approval (with modification to Condition #5 which changes maximum number of employees from 3 to 8):

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 Modified 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 daycare center without further review by and approval of the Board.
3. Proposal is subject to full construction plans being submitted to the Department of Public Works for traffic and MSD for storm water approvals. Once those have been approved, the plan is subject to Inspections, Permits and Licenses for building/parking permits.
4. The daycare shall be open Monday through Friday, 6:00a.m. to 12:00 midnight with two shifts, 6:00a.m. to 4:00 p.m. and 4:00 p.m. to 12:00 midnight.
5. The maximum number of employees on site at any given time shall be eight.

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6. The maximum number of kids on site at any given time shall be 20.

The vote was as follows:

Yes: Members Buttorff, Turner, Leanhart, and Vice Chair Fishman

Absent: Members Young, Howard, and Chair Allendorf

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CASE NUMBER 17CUP1114

Request:	Modified Conditional Use Permit for Cemeteries and Mausoleums, variance of the required fence height and waiver to permit a wall within the required LBA
Project Name:	1600 and 1740 Newburg Road
Location:	1600 and 1740 Newburg Road
Owner:	Roman Catholic Bishop of Louisville
Applicant:	Catholic Cemeteries
Representative:	Bardenwerper Talbott & Roberts PLLC
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan, 10 – Pat Mulvihill
Case Manager:	Beth Jones, AICP, Planner II

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

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

Agency Testimony:

02:35:17 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:

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223

Summary of testimony of those in favor:

02:45:58 Nick Pregliasco spoke in favor of the request and showed a Powerpoint presentation. Mr. Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

03:08:01 Board Members' deliberation

03:08:15 On a motion by Member Turner, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Modification of Conditional Use Permit for Cemeteries and Mausoleums to expand the existing cemetery (LDC 4.2.13):

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

WHEREAS, the Board further finds that the use of the property is compatible with the surrounding area. The retaining wall and fence, which could reach a combined height of up to 18 ft. from the grade of the existing sidewalk, may be excessive, and

WHEREAS, the Board further finds that the site is served by public facilities and the proposal is not expected to create significant additional service requirements, and

WHEREAS, the Board further finds that:

Cemeteries, Mausoleums, and Crematories may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the following requirements:

- A. Fences - A fence, with a minimum height of 6 feet, shall be erected around the premises with openings only for ingress and egress to a public way.
- B. Required Yards - No required yard shall be occupied by graves. There shall be a 30 foot landscaped or open space buffer between the property line and any building, structure, or gravesite. No gravesites shall be placed closer than 30 feet from any property line and at least 30 feet from the right-of-way line for existing and planned public streets. This shall not apply to roads

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- C. designed for internal circulation within the cemetery, mausoleum or crematory property.
- D. All roads used solely for internal circulation shall have a minimum pavement width of 16 feet and a minimum shoulder width of 6 feet on each side of the pavement. Roads providing access to chapels or offices shall have minimum pavement width of 20 feet; and

Variance to permit a fence located more than 5 ft. from a public sidewalk to exceed the 48 inch maximum permitted total height by up to 8 ft. 10 in. (LDC 4.4.3.A.1.a.i):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance does not create a public health or welfare issue, and

WHEREAS, the Board further finds that the vicinity is a walkable environment used extensively by pedestrians. The requested variance will create a significant physical streetscape element that does not exist on that scale elsewhere in the vicinity and might affect its visual character. A similar retaining wall directly adjacent to the sidewalk on the opposite side of the street is approximately 4 ft. high, 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 proposal will create a barrier of up to 17 ft. in height, which includes the grade elevation, the 6 ft. fence required by the CUP and a retaining wall with a maximum height of up to 11 ft. above the adjoining sidewalk grade, and

WHEREAS, the Board further finds that the variance request is based on the topography of the site, and

WHEREAS, the Board further finds that the topography of the site is an existing condition; and

Waiver to permit a retaining wall to be located within the required Landscape Buffer Area (LBA) (LDC 10.2.4.B.1):

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners, and

WHEREAS, the Board further finds that the waiver will not violate Cornerstone 2020 guidelines in that the proposed development is consistent with the permitted use of the property, 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, and

WHEREAS, the Board further finds that strict application of the provisions of the regulation would create an unnecessary hardship on the applicant; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1114 does hereby **APPROVE** Modification of Conditional Use Permit for Cemeteries and Mausoleums to expand the existing cemetery (LDC 4.2.13), Variance to permit a fence located more than 5 ft. from a public sidewalk to exceed the 48 inch maximum permitted total height by up to 8 ft. 10 in. (LDC 4.4.3.A.1.a.i), and Waiver to permit retaining wall to be located within the required Landscape Buffer Area (LBA) (LDC 10.2.4.B.1), **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 by and approval of the Board.
2. The Modified 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 Cemeteries and Mausoleums without further review by and approval of the Board.

The vote was as follows:

Yes: Members Buttorff, Turner, Leanhart, and Vice Chair Fishman

Absent: Members Young, Howard, and Chair Allendorf

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03:10:45 Meeting was recessed.

03:11:19 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 18CUP1024

Request:	Conditional Use Permit to allow short term rental of a dwelling unit not the primary residence of the host in an R-6 zoning district
Project Name:	Short Term Rental
Location:	1000 Caldwell Street
Owner:	Nicholas Peskoe
Applicant:	David Orange
Representative:	David Orange
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:

03:11:34 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:

David Orange, 5311 Chenoweth Park Lane, Louisville, KY 40291
Nick Peskoe, 200 Idlewylde Dr., Louisville, KY 40206

Summary of testimony of those in favor:

03:15:45 David Orange spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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03:26:02 Nick Peskoe 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.

03:30:53 Board Members' deliberation

03:32:12 On a motion by Member Turner, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, was adopted:

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

WHEREAS, the Board further finds that when appropriately managed, the proposed use is compatible with surrounding development and land uses. No exterior construction or alterations to the building or the site will be required, and

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. The proposal does not appear to create substantial additional requirements for the site, and

WHEREAS, the Board further finds that:

A short term rental of dwelling unit that is not the primary residence of the host in a 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 R-8A district and a short term rental of any dwelling unit in a TNZD district may be allowed upon the granting of a Conditional Use Permit. In addition to any conditions of approval, a short term rental and its host shall meet the following requirements:

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.

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- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **Following renovation, the dwelling unit will have five bedrooms. LDC regulations permit up to 14 guests.**
- D. The dwelling unit shall be a single-family residence, duplex or condominium. This provision shall not be waived or adjusted. **PVA lists the existing structure as a tri-plex apartment, but density requirements restrict the use of the structure to a single-family residence. The applicant is converting the structure to single-family and has provided a written statement to that effect.**
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **The corner site has 25 ft. of property frontage on Caldwell Street and 125 of frontage on Swan Street; LDC regulations credit the site with a total of seven on-street parking spaces. There is also a one-car garage and a one-car parking pad at the rear.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1024 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit not the primary residence of the host, **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

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1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not registered with Develop Louisville and with the Revenue Commission within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.
2. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 17CUP1069

Request:	Conditional Use Permit to allow short term rental of a dwelling unit in the TNZD
Project Name:	Short Term Rental
Location:	1474 S. 1st Street
Owner:	Nicholas Peskoe
Applicant:	Sieglindi Kinne
Representative:	Sieglindi Kinne
Jurisdiction:	Louisville Metro
Council District:	6 -- David James
Case Manager:	Beth Jones, AICP, Planner II

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

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

Agency Testimony:

03:33:57 Beth Jones presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Sieglindi Kinne, 1478 S. 1st Street, Louisville, KY 40208

Summary of testimony of those in favor:

03:37:53 Sieglindi Kinne 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.

03:42:22 Board Members' deliberation

03:42:43 On a motion by Member Leanhart, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis and the presentation, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal does not conflict with Comprehensive Plan policies, and

WHEREAS, the Board further finds that when appropriately managed, the proposed use is compatible with surrounding development and land uses. No exterior construction or alterations to the building or the site will be required, and

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. The proposal will not create substantial additional requirements for the site, and

WHEREAS, the Board further finds that:

A short term rental of dwelling unit that is not the primary residence of the host in a 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 R-8A district and a short term rental of any dwelling unit in a TNZD district may be allowed upon the granting of a Conditional Use Permit. In addition to any conditions of approval, a short term rental and its host shall meet the following requirements:

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **LDC regulations permit up to eight guests in the two-bedroom unit on the first floor. LDC**

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regulations permit up to ten guests in the three-bedroom unit on the second floor.

- D. The dwelling unit shall be a single-family residence, duplex or condominium. This provision shall not be waived or adjusted. **The dwelling unit is a duplex residence.**
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **LDC regulations credit the property frontage of 33 ft. with one on-street parking space. A parking area off the rear alley can accommodate up to three vehicles.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1069 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit located in the TNZD (LDC 4.2.63), **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

- 1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not registered with Develop Louisville and with the Revenue Commission within

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60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.

2. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.

The vote was as follows:

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

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CASE NUMBER 18CUP1043

Request:	Modified Conditional Use Permit for Masonic Homes
Project Name:	Sam Swope Care Center
Location:	240 Masonic Home Drive
Owner:	Masonic Homes of KY, Inc.
Applicant:	Masonic Homes of KY, Inc.
Representative:	Dinsmore & Shohl, LLP – Clifford Ashburner
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Joel Dock, Planner II

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

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

Agency Testimony:

03:44:46 Joel Dock presented the case and showed a Powerpoint presentation. Mr. Dock responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Cliff Ashburner, 101 S. 5th Street, Suite 2500, Louisville, KY 40202

Summary of testimony of those in favor:

03:51:28 Cliff Ashburner spoke in favor of the request and showed a Powerpoint presentation. Mr. Ashburner 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.

03:57:55 Board Members' deliberation

03:59:09 On a motion by Member Turner, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony heard today, and the variance justification, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variances will not adversely affect public health safety or welfare as the Masonic Homes property is an integrated development with mixed-uses, shared parking facilities, internal drives, and open space. The adjacent use is an assisted living nursing facility with a similar parking layout which is consistent with the overall development of the Masonic Homes property, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the Masonic Homes property is an integrated development with site design and building design that is consistent with the character of the development, immediately surrounding properties, and within the general vicinity, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the encroachments will not result in any adverse impact on vehicular and pedestrian movement, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as parking facilities are being provided to accommodate the needs of the integrated campus, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the parking is needed to cross the property line at this location, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as

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sufficient parking must be provided to accommodate the use and the parking is shared in common between the campus, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as appropriate relief is being requested from the Board of zoning Adjustment, and

WHEREAS, the Board further finds that the proposed variance, which will reduce the 20' street side yard setback where it is adjacent to a residential use or zoning district, will not adversely affect the public health, safety or welfare. The variance will allow limited encroachments for parking spaces into yards associated with internal driveways. The encroachment will not result in any impact on motorists along Frankfort Avenue or any adjacent structures, and

WHEREAS, the Board further finds that the variance will not alter the essential character of the general vicinity. The expansion of the parking areas at the Masonic Homes campus will allow the applicant to better serve its residents, visitors, employees, and the public. The encroachment of the parking adjacent to applicant-owned property should have no impact on the character of the area, and

WHEREAS, the Board further finds that the variance will not cause a hazard or nuisance to the public for the reasons stated above and because the encroachment is a parking area that will be landscaped and is adjacent to the interior of the Masonic Homes campus, and

WHEREAS, the Board further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations. The zoning regulations concerning setbacks are meant to address the location of structures and parking adjacent to right of way to which the property has access or similarly situated lots and structures. Here, the side yard setback is being applied to internal driveways on property owned by the applicant, which has approved the plan, and

WHEREAS, the Board further finds that the variance arises from special circumstances that do not generally apply to land in the vicinity of the project. As stated above, the zoning regulations concerning setbacks are meant to address the location of structures and parking adjacent to right of way to which the property has access or similarly situated lots and structures. Here, the side yard

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setback is being applied to internal driveways on property owned by the applicant, which has approved the plan, and

WHEREAS, the Board further finds that the strict application of the regulations would create an unnecessary hardship because the full 20' setback would require the applicant to limit the use of its property in response to a setback requirement that should not be applied to internal driveways on property owned by the applicant, which has approved the plan, and

WHEREAS, the Board further finds that the circumstances are not the result of actions taken by the applicant subsequent to the adoption of the Land Development Code but are, instead, the result of the misapplication of the side yard setback requirements to internal driveways on property owned by the applicant, which has approved the plan. The variance will allow the applicant to improve parking and internal access to the Masonic Homes campus for residents, visitors, employees, and the public; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1048 does hereby **APPROVE** Variance from Land Development Code Section 5.3.5.C.3.a to allow for parking to be located within the 20' non-residential to residential setback.

The vote was as follows:

Yes: Members Buttorff, Turner, Leanhart, and Vice Chair Fishman

Absent: Members Young, Howard, and Chair Allendorf

04:01:05 On a motion by Member Turner, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, was adopted:

Modified Conditional Use Permit to allow for revisions and an expansion to the existing approved modified conditional use permit of docket 10164:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposed modification of the conditional use for parking facilities is in keeping

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with applicable policies of the Comprehensive Plan and with those findings of the Board of Zoning Adjustment in granting the conditional use permit on February 20, 2008, and

WHEREAS, the Board further finds that the proposal is compatible with surrounding land uses and the general character of the area as the Masonic Homes property is an integrated development with site design and building design that is consistent with the character of the development, immediately surrounding properties, and within the general vicinity, and

WHEREAS, the Board further finds that necessary public facilities appear to be present to accommodate multiple modes of transportation, adequate drainage and run-off, emergency services, and the general health and welfare of the community, and

WHEREAS, the Board further finds that:

Nursing Homes and Homes for the Infirm or Aged may be permitted in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. All buildings shall be located at least 30 feet from any property line.
- B. One sign, not to exceed 60 square feet and six feet in height, may be placed at each of the major entrances, except in districts where larger signs are allowed.
- C. The Board of Zoning Adjustments shall add any restrictions to mitigate nuisances or adverse effects.

The modification to the approved conditional use permit is in keeping with those findings of the Board of Zoning Adjustment in granting the conditional use permit on February 20, 2018. The proposed modification does not involve the construction on any new building; therefore, relief from item 'A' is not necessary; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1043 does hereby **APPROVE** Modified Conditional Use Permit to allow for revisions and an expansion to the existing approved modified conditional use permit of docket 10164, **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. No further development of the site shall occur without prior review and approval by the Board.
2. Evergreen plantings shall be installed to form a continuous hedge along the northeast and northwest sides of the parking lot and driveway proposed to be located to the northeast and north of the existing infirmary building. These plantings shall be included on the landscaping plans which must be submitted for review and approval under Article 12. The height of these plantings shall be determined by the staff Landscape Architect's. These plantings shall be installed regardless of any other requirements of the landscape regulations found in Article 12 and shall be installed prior to use of the parking area and shall be properly maintained at all times thereafter.
3. Any lighting of the site shall be directed downward and away from nearby residential uses.
4. In accordance with the binding elements attached to the approval of change in zoning Docket No. 9-19-83 (especially Binding Element Nos. 1, 2, 4, 6, and 11), the applicant shall obtain approval of a revised district development plan for the site showing the development approved under this conditional use permit.
5. No building permits shall be pursued by the applicant nor be issued prior to the applicant obtaining the necessary approval of a revised district development plan through the Planning Commission as is required by the above referenced Binding Elements under change in zoning Docket No. 9-19-83.
6. The applicant shall obtain approval of a revised preliminary subdivision plan under Docket No. 10-5-83 from the Planning Commission prior to September 29, 1988, the date the current approved preliminary subdivision plan expires.

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The vote was as follows:

Yes: Members Buttorff, Turner, Leanhart, and Vice Chair Fishman

Absent: Members Young, Howard, and Chair Allendorf

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CASE NUMBER 18CUP1017

Request:	Conditional Use Permit to allow a private institutional use in an R-R zoning district
Project Name:	The Potter's Wheel Spiritual Retreat House
Location:	4401 Potts Road
Owner:	The Potter's Wheel
Applicant:	Joe Donaldson
Representative:	Joe Donaldson
Jurisdiction:	Louisville Metro
Council District:	20 – Stuart Benson
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:

04:03:27 Jon Crumbie presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Joe Donaldson, 4009 Lambert Ave., Louisville, KY 40218

Summary of testimony of those in favor:

04:06:46 Joe Donaldson 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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04:09:44 Board Members' deliberation

04:10:29 On a motion by Member Leanhart, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the presentation, was adopted:

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 the proposal is compatible with the surrounding uses and the 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 subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed and approved the proposal, and

WHEREAS, the Board further finds that:

Private institutional uses, except for such uses specifically regulated elsewhere in this LDC, may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N zoning districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

- A. Except in the R-R zoning district, all structures, except fencing, and all off-street parking shall be at least 30 feet from any property line adjacent to an existing residential use or residential zoning district. In the R-R zoning district all structures, except fencing, shall be at least 150 feet from any property line and all off-street parking shall be at least 30 feet from any property line. **The proposed residence will be approximately 45 feet from north property line. The structure will be located on a large lot which is adjacent to a dense tree line and will be used only as a care takers residence. The nearest structure is over 430 feet away.**
- B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated.
- C. Off-street parking not located within a driveway shall be located to the side or rear of the building(s). The number of required off-street parking spaces

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shall be determined by the Planning Director in consultation with the Director of Public Works based on the standards for the closest comparable use and on the particular parking demand and trip generation characteristics of the proposed use.

- D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).
- E. The Board of Zoning Adjustment may set hours of operation for the institutional use in order to minimize potential negative impacts on surrounding residential properties; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1017 does hereby **APPROVE** Conditional Use Permit to allow a private institution in an R-R zoning district, **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 private institution until further review and approval by the Board.

The vote was as follows:

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

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ADJOURNMENT

The meeting adjourned at approximately 5:42 p.m.

Chair

Secretary