

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

August 7, 2017

A meeting of the Louisville Metro Board of Zoning Adjustment was held on August 7, 2017 at 8:30 a.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Mike Allendorf, Chair
Betty Jarboe, Vice Chair
Lula Howard
Dwight Young
Lester Turner

Members Absent:

Dean Tharp
Rosalind Fishman, Secretary

Staff Members Present:

Brian Davis, Planning & Design Manager
Brian Mabry, Planning & Design Supervisor
Joe Haberman, Planning & Design Manager
Emily Liu, Planning & Design Director
Jon Crumbie, Planning & Design Coordinator
Dante St. Germain, Planner I
Ross Allen, Planner I
Jay Lockett, Planner I
Joel Dock, Planner II
Julia Williams, Planning & Design Supervisor
John Carroll, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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OTHER BUSINESS

Votecast Training_06.01.2017

00:02:18 Chair Allendorf called the meeting to order.

00:04:19 Brian Davis provided training for the Votecast (iLegislate) system. Mr. Davis responded to questions from the Board Members.

NOTE: This agenda item was for training purposes only. Therefore, no vote or action was taken.

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APPROVAL OF MINUTES

July 24, 2017 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:15:11 On a motion by Vice Chair Jarboe, 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 July 24, 2017.

The vote was as follows:

Yes: Members Turner, Young, and Vice Chair Jarboe

Abstain: Member Howard, and Chair Allendorf

Absent: Members Tharp, and Fishman

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BUSINESS SESSION

CASE NUMBER 16DEVPLAN1012

Request:	Amended Category 3 Development Plan
Project Name:	Southeast Christian Church – Chapel in the Woods
Location:	1407 Moser Rd.
Owner:	Southeast Christian Church of Jefferson County
Applicant:	John D. Campbell, Heritage Engineering, LLC
Representative:	John D. Campbell, Heritage Engineering, LLC
Jurisdiction:	Middletown
Council District:	19 – Julie Denton
Case Manager:	Brian Mabry, Planning Supervisor

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

00:17:59 Brian Mabry presented the case and showed the site plan. Mr. Mabry responded to questions from the Board Members (see recording for detailed presentation).

00:21:29 On a motion by Member Howard, seconded by Vice Chair Jarboe, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the plan has met the Standard of Review; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 16DEVPLAN1012 does hereby **APPROVE** the Amended Category 3 Development Plan, based upon the presentation and the Staff Report.

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BUSINESS SESSION

CASE NUMBER 16DEVPLAN1012

The vote was as follows:

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

Absent: Members Tharp, and Fishman

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PUBLIC HEARING

CASE NUMBER 17APPEAL1002

Request:	Appeal of an Administrative Approval of a Short Term Rental
Project Name:	Short Term Rental Appeal
Location:	2211 Longest Ave.
Owner:	Jocelyn Gonzalez
Applicant:	Maureen Bearden & Maureen McCall
Representative:	N/A
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Brian Mabry, Planning Supervisor

Agency Testimony:

00:23:23 Brian Mabry stated this case has been cancelled and will not be rescheduled (see staff report and recording for detailed presentation).

NOTE: This agenda item was not heard due to cancellation. Therefore, no vote or action was taken.

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PUBLIC HEARING

CASE NUMBER 17VARIANCE1045

Request:	Variance to allow a fence in a Traditional form district to exceed 42 inches in height in the street side yard
Project Name:	1300 Cherokee Road Fence
Location:	1300 Cherokee Road
Owner:	Nick & Kathy Ising
Applicant:	Nick Ising
Representative:	Nick Ising
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:

00:25:00 Dante St. Germain presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Nick Ising, 1300 Cherokee Road, Louisville, KY

Summary of testimony of those in favor:

00:30:28 Nick Ising 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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00:33:03 Board Members' deliberation

00:34:10 On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the fence will not obstruct sight lines for motorists or pedestrians at the corner, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as a Certificate of Appropriateness has been issued approving the fence, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the fence will not obstruct sight lines or create a hazard for motorists or pedestrians at the corner, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the fence is needed to provide privacy in the rear yard of a corner lot, 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 lot is a corner lot which otherwise has little privacy in the rear, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the applicant to construct a lower fence, 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 fence has not yet been constructed and the applicant is requesting the variance, and

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

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CASE NUMBER 17VARIANCE1045

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1045 does hereby **APPROVE** Variance from LDC Section 4.4.3 to allow a fence in the street side yard in a Traditional Form District to exceed 42 inches in height, based upon the Staff Report, the site plan and the applicant's justification statement.

The vote was as follows:

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

Absent: Members Tharp, and Fishman

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CASE NUMBER 17DEVPLAN1110

Request:	Review of a Category 3 Development Plan for a proposed 38 +/- foot tall 29,700 sf. light industrial building with 145 parking spaces with two variances.
Project Name:	Advanced Business Solutions
Location:	1829 Rear Payne Street and 115 Charlton Street
Owner:	John T. Dougherty – Charlton Company Inc.
Applicant:	Nikki Hamilton – RWSS Properties LLC.
Representative:	Kathy Linares – Mindel, Scott, and Associates Inc.
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Ross Allen, 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:

00:35:45 Ross Allen presented the case and showed a Powerpoint presentation. Mr. Allen responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Kathy Linares, 5151 Jefferson Blvd., Louisville, KY 40219
Mike O’Leary, 1963 Payne Street, Louisville, KY 40206

Summary of testimony of those in favor:

00:46:08 Kathy Linares spoke on behalf of the applicant in favor of the request (see recording for detailed presentation).

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00:47:12 Ross Allen advised the Board Members there was a Certificate of Appropriateness for this case which was approved last Wednesday. Mr. Allen stated there were some Conditions of Approval associated with that (see recording for detailed presentation).

00:47:34 Kathy Linares spoke in favor of the request and showed a Powerpoint presentation. Ms. Linares responded to questions from the Board Members (see recording for detailed presentation).

01:05:16 Mike O'Leary spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

01:09:26 Board Members' deliberation

01:10:54 Ross Allen and Joe Haberman, Planning and Design Manager, responded to questions from the Board Members regarding the Conditions of Approval and the Certificate of Appropriateness (see recording for detailed presentation).

01:12:41 On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution was adopted:

Category 3 Development Plan:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the plan has met the Standard of Review, 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 17DEVPLAN1110 does hereby **APPROVE** the Category 3 Development Plan for a proposed 2 story (height of 38+/-) 29,700 sf (2,970 sf. of Office and 26,730 sf Manufacturing) light industrial building located within an M-2 Zoning District in a

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Traditional Neighborhood Form District with a 47,029 sf. VUA containing 145 parking spaces, including 5 ADA spaces, based upon the Staff Report, the site plan and the applicant's justification statement.

The vote was as follows:

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

Absent: Members Tharp, and Fishman

01:14:30 On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution was adopted:

Variance from LDC Section 5.2.2.C.2, Table 5.2.2 (M-2 zoned parcel) to allow the proposed building to exceed the maximum front setback of 25 feet for a variance of approximately 60 feet:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety, or welfare since the site is located in a somewhat remote location on the south side of the railroad tracks and behind the Payne Street and South Charlton Street lots. At this location, neither the reduced rear yard, the increased front yard, nor the proposed parking in front of the building will negatively impact the neighborhood. In addition, the proposed use, light manufacturing for the assembly and repair of computers, will be significantly less intense than the Louisville Paving facility which has occupied this site for many years, and

WHEREAS, the Board further finds that the variances will not alter the essential character of the general vicinity as the site is located behind and on the other side. It is located behind the lots on Payne Street and S. Charlton Street, on the other side of the railroad track and on the other side of the alleys that lie along the sites north and south property line and reducing any effect the variances might have had on the adjacent developments, and

WHEREAS, the Board further finds that the site only lies directly adjacent to the D.D. Williamson Inc. property along its east property line and otherwise separated from other lots by alleys and the railroad track to the north. There is a request to close some of these alleys and then the property will back up to the lots on South Charlton Street which are also zoned M-2 and back up to the 3 lots

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east of Stoll Avenue but with the closure of the alley the required landscape buffers will be provided. This use will be a lower intensity user than the existing facility and for all of these reasons the variances requested will not impact or negatively affect these adjacent uses or the public, and

WHEREAS, the Board further finds that since there are no negative impacts resulting from the variances or even the use proposed, the granting of this request will not result in an unreasonable circumvention of the requirements of the zoning regulations, and

WHEREAS, the Board further finds that the sites location is a special circumstance. It is unique in its location and the surrounding alleys which separate it from other developments. The 50 foot width of Stoll Avenue dead ends into the subject site, this being the only true road frontage. As such, the site does not conform to the typical building setback requirements. With the sites primary access being from Stoll Avenue, it is unreasonable to accommodate this access and locate the building within the form district minimum 15' and maximum 25' front setback. Parking in front of the building does not negatively impact other uses on Stoll Avenue as they back up to this site. The site is bordered by several alleys, the one on the north side which dead ends into the site has a railroad on its other side so that the request to reduce the rear yard is appropriate especially since it shall be used for deliveries, and

WHEREAS, the Board further finds that due to the sites location and separation from the nearby developments with the railroad and alley along the north property line, the alley along the south and west property line and being located behind the lots fronting on Payne Street and S. Charlton Street, the proposed variances to the front and rear yards will have little to no effect on the adjacent developments and therefore strict application would deprive the applicant of the reasonable use of the land and create an unnecessary hardship on the applicant, and

WHEREAS, the Board further finds that the unique location of the site, its access and lot configuration is an existing condition that the applicant is working with to provide a new facility that when completed will be a better fit with the area, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; and

Variance from LDC Section 5.2.2.C.2, Table 5.2.2 (M-2 zoned parcel) to allow the proposed building to encroach 10 feet into the minimum rear yard setback of 15 feet:

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety, or welfare since the site is located in a somewhat remote location on the south side of the railroad tracks and behind the Payne Street and South Charlton Street lots. At this location, neither the reduced rear yard, the increased front yard, nor the proposed parking in front of the building will negatively impact the neighborhood. In addition, the proposed use, light manufacturing for the assembly and repair of computers, will be significantly less intense than the Louisville Paving facility which has occupied this site for many years, and

WHEREAS, the Board further finds that the variances will not alter the essential character of the general vicinity as the site is located behind and on the other side. It is located behind the lots on Payne Street and S. Charlton Street, on the other side of the railroad track and on the other side of the alleys that lie along the sites north and south property line and reducing any effect the variances might have had on the adjacent developments, and

WHEREAS, the Board further finds that the site only lies directly adjacent to the D.D. Williamson Inc. property along its east property line and otherwise separated from other lots by alleys and the railroad track to the north. There is a request to close some of these alleys and then the property will back up to the lots on South Charlton Street which are also zoned M-2 and back up to the 3 lots east of Stoll Avenue but with the closure of the alley the required landscape buffers will be provided. This use will be a lower intensity user than the existing facility and for all of these reasons the variances requested will not impact or negatively affect these adjacent uses or the public, and

WHEREAS, the Board further finds that since there are no negative impacts resulting from the variances or even the use proposed, the granting of this request will not result in an unreasonable circumvention of the requirements of the zoning regulations, and

WHEREAS, the Board further finds that the sites location is a special circumstance. It is unique in its location and the surrounding alleys which separate it from other developments. The 50 foot width of Stoll Avenue dead ends into the subject site, this being the only true road frontage. As such, the site does not conform to the typical building setback requirements. With the sites primary access being from Stoll Avenue, it is unreasonable to accommodate this access and locate the building within the form district minimum 15' and maximum 25' front setback. Parking in front of the building does not negatively impact other uses on Stoll Avenue as they back up to this site. The site is bordered by several alleys, the one on the north side which dead ends into the site has a railroad on

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its other side so that the request to reduce the rear yard is appropriate especially since it shall be used for deliveries, and

WHEREAS, the Board further finds that due to the sites location and separation from the nearby developments with the railroad and alley along the north property line, the alley along the south and west property line and being located behind the lots fronting on Payne Street and S. Charlton Street, the proposed variances to the front and rear yards will have little to no effect on the adjacent developments and therefore strict application would deprive the applicant of the reasonable use of the land and create an unnecessary hardship on the applicant, and

WHEREAS, the Board further finds that the unique location of the site, its access and lot configuration is an existing condition that the applicant is working with to provide a new facility that when completed will be a better fit with the area, 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 17DEVPLAN1110 does hereby **APPROVE** Variance from LDC Section 5.2.2.C.2, Table 5.2.2 (M-2 zoned parcel) to allow the proposed building to exceed the maximum front setback of 25 feet for a variance of approximately 60 feet **(Requirement 25 ft., Request 85 ft., Variance 60 ft.)**, and Variance from LDC Section 5.2.2.C.2, Table 5.2.2 (M-2 zoned parcel) to allow the proposed building to encroach 10 feet into the minimum rear yard setback of 15 feet **(Requirement 15 ft., Request 5 ft., Variance 10 ft.)**, based upon the Staff Report, the site plan and the applicant's justification statement.

The vote was as follows:

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

Absent: Members Tharp, and Fishman

01:16:13 On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution was adopted:

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Variance from LDC Section 5.5.1.A.3 to allow parking to be located in the front of the building within the Traditional Neighborhood Form District:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety, or welfare since the site is located in a somewhat remote location on the south side of the railroad tracks and behind the Payne Street and South Charlton Street lots. At this location, neither the reduced rear yard or the greater than required front yard setback, nor the proposed parking in front of the building will negatively impact the neighborhood. In addition, the proposed use, light manufacturing for the assembly and repair of computers, will be significantly less intense than the Louisville Paving facility which has occupied this site for many years, and

WHEREAS, the Board further finds that the variances will not alter the essential character of the general vicinity as the site is located behind and on the other side. It is located behind the lots on Payne Street and S. Charlton Street, on the other side of the railroad track and on the other side of the alleys that lie along the sites north and south property line and reducing any effect the variances might have had on the adjacent developments, and

WHEREAS, the Board further finds that the site only lies directly adjacent to the D.D. Williamson Inc. property along its east property line and otherwise separated from other lots by alleys and the railroad track to the north. There is a request to close some of these alleys and then the property will back up to the lots on South Charlton Street which are also zoned M-2 and back up to the 3 lots east of Stoll Avenue but with the closure of the alley the required landscape buffers will be provided. This use will be a lower intensity user than the existing facility and for all of these reasons the variances requested will not impact or negatively affect these adjacent uses or the public, and

WHEREAS, the Board further finds that since there are no negative impacts resulting from the variances or even the use proposed, the granting of this request will not result in an unreasonable circumvention of the requirements of the zoning regulations, and

WHEREAS, the Board further finds that the sites location is a special circumstance. It is unique in its location and the surrounding alleys which separate it from other developments. The 50 foot width of Stoll Avenue dead ends into the subject site, this being the only true road frontage. As such, the site does not conform to the typical building setback requirements. With the sites primary access being from Stoll Avenue, it is unreasonable to accommodate this access and locate the building within the form district minimum 15' and maximum

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25' front setback. Parking in front of the building does not negatively impact other uses on Stoll Avenue as they back up to this site. The site is bordered by several alleys, the one on the north side which dead ends into the site has a railroad on its other side so that the request to reduce the rear yard is appropriate especially since it shall be used for deliveries, and

WHEREAS, the Board further finds that due to the sites location and separation from the nearby developments with the railroad and alley along the north property line, the alley along the south and west property line and being located behind the lots fronting on Payne Street and S. Charlton Street, the proposed variances to the front and rear yards will have little to no effect on the adjacent developments and therefore strict application would deprive the applicant of the reasonable use of the land and create an unnecessary hardship on the applicant, and

WHEREAS, the Board further finds that the unique location of the site, its access and lot configuration is an existing condition that the applicant is working with to provide a new facility that when completed will be a better fit with the area, 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 17DEVPLAN1110 does hereby **APPROVE** Variance from LDC Section 5.5.1.A.3 to allow parking to be located in the front of the building within the Traditional Neighborhood Form District, based upon the Staff Report, the applicant's justification statement and the site plan.

The vote was as follows:

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

Absent: Members Tharp, and Fishman

01:17:19 Meeting was recessed.

01:18:08 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 17DEVPLAN1093

Request:	Variance to allow the front setback of a commercial development to exceed 80' in the neighborhood form district
Project Name:	HOS Properties
Location:	8727 Old Bardstown Rd
Owner:	HOS Properties, Inc.
Applicant:	HOS Properties, Inc.
Representative:	Ashley Bartley – QK4
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
Case Manager:	Jay Luckett, Planner I

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

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

Agency Testimony:

01:18:44 Jay Luckett presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Ashley Bartley, 1046 E. Chestnut Street, Louisville, KY 40205

Summary of testimony of those in favor:

01:23:44 Ashley Bartley spoke in favor of the request and showed a Powerpoint presentation. Ms. Bartley responded to questions from the Board Members (see recording for detailed presentation).

01:28:31 Board Members' deliberation

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CASE NUMBER 17DEVPLAN1093

01:29:12 On a motion by Member Howard, seconded by Vice Chair Jarboe, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the building will be buffered where it is adjacent to residential, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the proposal is in keeping with the existing development pattern of the area, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the building will be buffered where it is adjacent to residential, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since it is in keeping with the established development pattern in the area, and

WHEREAS, the Board further finds that the development is consistent with the development pattern of other businesses in the area, but this parcel is much wider than the others, leading to the variance request, 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 17DEVPLAN1093 does hereby **APPROVE** Variance from LDC Table 5.3.2 to allow a commercial development to exceed the maximum 80 foot setback by 104 feet (**Requirement 80 feet Max, Request 184 feet, Variance 104 feet**), based upon the Staff Report and the applicant's justification.

The vote was as follows:

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

Absent: Members Tharp, and Fishman

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CASE NUMBER 17VARIANCE1004

Request:	Variance to reduce the required rear yard from 50 feet to 30 feet
Project Name:	9903 Brownsboro Road
Location:	9903 Brownsboro Road
Owner:	Commonwealth Bank & Trust Co
Applicant:	Commonwealth Bank & Trust Co
Representative:	Stites & Harbison, PLLC
Jurisdiction:	Louisville Metro
Council District:	16 – Scott Reed
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:

01:31:35 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:

Greg Ehrhard, 400 W. Market Street, Suite 1800, Louisville, KY 40202

Summary of testimony of those in favor:

01:36:19 Greg Ehrhard spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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01:38:20 Board Members' deliberation

01:39:08 On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety, or welfare as the reduced area maintains a twenty-five foot landscape buffer area that aids in mitigating any potential noise, odor, or light omitted from the subject site. Additionally, an area of roughly twenty feet exists as an open space/drive lane between the rear of the subject site and two occupied residential building lots, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the area as the request is being made at the rear of the property and all other components of this project are compatible with the requirements of the Land Development Code and Comprehensive Plan, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as required landscaping (planting and screening) is being provided in the area requested for relief which serves to mitigate any potential noise, odor, or light omitted from the subject site, and

WHEREAS, the Board further finds that the requested variance would not allow an unreasonable circumvention of the zoning regulations as the minimum necessary relief has been requested to develop the site for the intended users while also maintaining desired levels of parking and cross connectivity, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances that do not generally apply to land in the general vicinity or same zone as the portion of the setback requested for relief is needed to accommodate drive lanes and cross connectivity between uses, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as all other LDC requirements are being met and appropriate transitions between the commercial and residential uses are being made, and

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WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1004 does hereby **APPROVE** Variance from LDC Section 5.3.3.C.2.b to reduce required 50 foot rear yard setback to 30 feet, based upon the Staff Report, the site plan and the applicant's testimony.

The vote was as follows:

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

Recused: Member Young

Absent: Members Tharp, and Fishman

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PUBLIC HEARING

CASE NUMBER 17VARIANCE1044

Request:	Variance to exceed the maximum setback along Dixie Highway
Project Name:	Passport Health and Wellness Campus Phase I
Location:	1800, 1824, & 1912 W. Broadway
Owner:	Newbridge Development LLC, Sotsky Family LP & Klein Real Properties
Applicant:	University Healthcare Inc.
Representative:	Sabak Wilson and Lingo, Inc.; Wyatt Tarrant and Combs PLLC.
Jurisdiction:	Louisville Metro
Council District:	4- Barbara Sexton Smith
Case Manager:	Julia Williams, RLA, AICP, Planning Supervisor

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

01:41:19 Julia Williams presented the case and showed a Powerpoint presentation. Ms. Williams responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jon Baker, 500 W. Jefferson St., Suite 2800, Louisville, KY 40202
Kelli Jones, 608 S. Third Street, Louisville, KY 40202

Summary of testimony of those in favor:

01:49:48 Jon Baker spoke on behalf of the applicant and showed a Powerpoint presentation (see recording for detailed presentation).

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01:56:21 Kelli Jones spoke in favor of the request and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see recording for detailed presentation).

02:04:26 Jon Baker 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.

02:06:20 Board Members' deliberation

02:07:53 On a motion by Vice Chair Jarboe, seconded by Member Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since Dixie Highway is being realigned with 18th Street leaving another space for future development at the corner, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since Dixie Highway is being realigned with 18th Street leaving another space for future development at the corner. It is unclear when the re-routing and construction of the Dixie will occur, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since Dixie Highway is being realigned with 18th Street leaving another space for future development at the corner. It is unclear when the re-routing and construction of the Dixie will occur, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since Dixie Highway is being realigned with 18th Street leaving another space for future development at the corner. The time frame for the Dixie realignment may or may not be in the same time frame as the subject site. It is also unclear who will be the property owner of the area created by the re alignment, and

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WHEREAS, the Board further finds that the special circumstance that is preventing the site from complying with the requirement is the time frame for the realignment and the ownership of the created lot, and

WHEREAS, the Board further finds that because the current Dixie Highway alignment is changing and knowing that there are some uncertainties with the realignment the current provisions would create an unnecessary hardship on the applicant, and

WHEREAS, the Board further finds that the circumstances are the result of actions taken by the city subsequent to the adoption of the zoning regulations from which relief is sought to no fault of the applicant, 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 17VARIANCE1044 does hereby **APPROVE** Variance from 5.5.1.A.2 to exceed the maximum 5' setback along Dixie Highway as shown on the approved development plan (78' +/- minimum to a 117' +/- maximum from the current Dixie Highway ROW. 195' +/- minimum to a 286' +/- maximum from the future Dixie Highway ROW realignment), based upon the Staff Report, the applicant's justification statement and the site plan.

The vote was as follows:

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

Absent: Members Tharp, and Fishman

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CASE NUMBER 17CUP1032

Request:	Conditional Use Permit to allow off-street parking in an R-5 zoning district
Project Name:	Willis – Klein Parking Lot Expansion
Location:	284 Ridgeway Avenue
Owner:	M. J. Klein, LLC
Applicant:	M. J. Klein, LLC
Representative:	William Bardenwerper
Jurisdiction:	St. Matthews
Council District:	9 – Bill Hollander
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:

02:10:22 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223
John Addington, 3001 Taylor Springs Dr., Louisville, KY 40220

Summary of testimony of those in favor:

02:18:19 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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02:36:41 John Addington spoke in favor of the request (see recording for detailed presentation).

02:38:34 Nick Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

William Conrad, 4062 Richland Ave., Louisville, KY 40207

Summary of testimony of those in opposition:

02:39:32 William Conrad spoke in opposition of the request. Mr. Conrad provided pictures to the Board Members. Mr. Conrad responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

03:03:22 Nick Pregliasco spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

Additional testimony in opposition:

03:11:05 William Conrad spoke in opposition in response to some of Mr. Pregliasco's comments during rebuttal (see recording for detailed presentation).

REBUTTAL:

03:12:29 Nick Pregliasco spoke in rebuttal (see recording for detailed presentation).

03:13:30 Jon Crumbie responded to questions from the Board Members (see recording for detailed presentation).

03:15:14 Nick Pregliasco spoke in regard to Item C for which the applicant is seeking relief. Mr. Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

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03:16:05 Board Members' deliberation

03:23:54 On a motion by Member Howard, seconded by Member Young, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the applicable policies of the Comprehensive Plan. The required landscaping and buffering will be provided along the interior and perimeter of the proposal, and

WHEREAS, the Board further finds that the proposal is compatible with the general character of the surrounding neighborhoods in terms of scale, intensity, traffic, noise, drainage and appearance, and

WHEREAS, the Board further finds that the proposal has been reviewed by MSD and Transportation Planning and both have approved the plan. The St. Matthews Fire Protection District did not comment on the proposal , and

WHEREAS, the Board further finds that:

An off-street parking area may be permitted in a district where it is ordinarily prohibited, provided it serves a use in a building for which insufficient off-street parking space is provided, and where the provision of such parking space will materially relieve traffic congestion on the streets and when developed in compliance with the listed requirements. There are seven requirements and six will be met. The applicant will be asking for relief from item c.

- a. The area shall be located within 200 feet of the property on which the building to be served is located.
- b. Walls, fences, or plantings shall be provided in a manner to provide protection for and be in harmony with surrounding residential property.
- c. The minimum front, street side, and side yards required in the district shall be maintained free of parking. **The required front yard along Ridgeway Avenue is 25 feet. The parking/maneuvering area will be 12.50 feet from the front property line. The required side yard along the south property line is 5 feet. The parking/maneuvering area will be located on the property line.**

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- d. All driveways and the area used for the parking of vehicles shall be surfaced with a hard and durable material and be properly drained.
- e. The area shall be used exclusively for transient parking of motor vehicles belonging to invitees of the owner or lessee of said lot.
- f. The approval of all plans and specifications for the improvement, surfacing, and drainage for said parking area will be obtained from the Director of Works for the City of Louisville or the County Engineer for Jefferson County prior to use of the parking area.
- g. The approval of all plans and specifications for all entrances, exits, and lights shall be obtained from the department responsible for traffic engineering prior to the public hearing on the conditional use permit, 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 17CUP1032 does hereby **APPROVE** Conditional Use Permit to allow off-street parking in an R-5 Zoning District, with Modification to Item C on Page 3 of the Staff Report as indicated, based upon the applicant's Statement of Compliance, the Staff Report, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

- 1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
- 2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for off-street parking without further review and approval by the Board.
- 3. The landscape buffer area along the rear property line shall be 10 feet in width.
- 4. The applicant shall submit a revised plan, which shall be approvable by Staff, indicating the omission of the fence.

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The vote was as follows:

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

No: Vice Chair Jarboe

Absent: Members Tharp, and Fishman

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ADJOURNMENT

The meeting adjourned at approximately 12:08 p.m.

Chair

Secretary