

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

APRIL 4, 2016

A meeting of the Louisville Metro Board of Zoning Adjustment was held on April 4, 2016 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
Rosalind Fishman, Secretary
Dean Tharp
Lester Turner
Lula Howard

Members Absent:

Paul Bergmann

Staff Members Present:

Joe Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning & Design Manager
Steve Hendrix, Planning & Design Supervisor
Jon Crumbie, Planning Coordinator
Ross Allen, Planner I
Jon Baker, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

MARCH 21, 2016 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:05:55 On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on March 21, 2016.

The vote was as follows:

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

Absent: Member Bergmann

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PUBLIC HEARING

CASE NUMBER 16VARIANCE1013

Request:	Variance from the Land Development Code to allow the construction of a proposed dormer to encroach into the minimum side yard setback.
Project Name:	1904 Stevens Avenue
Location:	1904 Stevens Avenue
Owner:	John Gatchel
Applicant:	John Gatchel
Representative:	John Gatchel
Jurisdiction:	Louisville Metro
Council District:	8 – Tom Owen
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:

00:06:42 Ross Allen presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

00:12:08 Member Turner said that Mr. Allen had stated that on the survey it is very difficult to understand the property lines in this particular area of town. He asked if this was common among other properties also.

00:12:21 Mr. Allen stated within the general area, yes, because most of them there will be a sidewalk in between each home and so even though we see a planner's site plan, it is difficult to determine where in fact that property line is when we're actually on site visits (see recording for detailed presentation).

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00:12:43 Member Turner stated as he understands the request is for a zero setback, so how would you consider encroachment on the other property if we don't have a survey on it.

00:12:55 Mr. Allen stated upon site visit and speaking with the neighbor, the issue actually is because of the distance between the awnings and the guttering, so the issue becomes how is it going to be constructed (see recording for detailed presentation).

00:13:28 Member Fishman asked Mr. Allen to return to the photo of the separation of the two houses. Member Fishman asked if that was a common sidewalk. Mr. Allen stated no, it's actually the neighbor's sidewalk, access to her rear yard. Mr. Allen stated the applicant's sidewalk is on the opposite side. Member Fishman asked if this was right on the edge of her (the neighbor) property line. Mr. Allen stated again, it's very hard to determine where exactly the property line is (see recording for detailed presentation).

00:14:49 Mr. Allen answered questions from Member Fishman in regard to the guttering (see recording for detailed presentation).

The following spoke in favor of the request:

Dan Madrega, 414 Baxter Avenue, Suite 101, Louisville, KY 40205

John Gatchel, 1904 Stevens Avenue, Louisville, KY 40205 **(sworn in, but did not speak at this time)**

Summary of testimony of those in favor:

00:16:45 Dan Madrega spoke on behalf of the applicant and explained the reasons for the request for the Variance. Mr. Madrega stated that if it would appease the neighbor they would be able to lessen the amount of encroachment on that dormer (see recording for detailed presentation).

00:18:31 Mr. Madrega responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition to the request:

Shirley Lazrovitch, 1902 Stevens Avenue, Louisville, KY 40205

Summary of testimony of those in opposition:

00:26:08 Shirley Lazrovitch spoke in opposition to the request. Ms. Lazrovitch stated she would not allow entry to her property in respect to any Variance request and this is true whether she is at home or not at home (see recording for detailed presentation).

REBUTTAL:

00:41:52 Dan Madrega spoke in rebuttal. Mr. Madrega stated he quickly drew up a sketch of what exactly their compromise would be where they would just do the dormer encroaching into the setback, again, only about five or six feet and the rest of the dormer they built would be back within the setback and that would easily be able to be built within John's property; no need to impede into the neighbor's property at all (see recording for detailed presentation).

00:45:28 Member Fishman requested the sketch be shown to Ms. Lazrovitch to see if she is agreeable to that compromise.

00:46:00 Mr. Madrega and Mr. Gatchel answered questions from the Board Members (see recording for detailed presentation).

00:47:55 Mr. Madrega, Board Members and Ms. Lazrovitch discussed the proposed compromise (see recording for detailed presentation).

00:54:01 Board Members' deliberation

00:55:38 Proceedings were reopened to Public Session to discuss continuance of this case (see recording for detailed presentation).

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00:57:22 Board Members' deliberation

00:57:39 On a motion by Vice Chair Jarboe, seconded by Member Tharp, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 16VARIANCE1013 to the April 18, 2016 Board of Zoning Adjustment meeting for the purpose of the applicant submitting a revised site plan and elevations based upon the compromise suggested today, and that the applicant submit a proper survey for the property on the site in question.

The vote was as follows:

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

Absent: Member Bergmann

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CASE NUMBER 16VARIANCE1014

Request:	Variance from the Land Development Code to allow the side yards to be less than the required minimum.
Project Name:	2705 Chickasaw Avenue
Location:	2705 Chickasaw Avenue
Owner:	Frank Homan
Applicant:	David Beach
Representative:	David Beach
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:

00:59:17 Ross Allen presented the case and showed a Powerpoint presentation. Mr. Allen also responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

David Beach, 507 Macon Avenue, Louisville, KY 40207

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Summary of testimony of those in favor:

01:07:09 The applicant, David Beach, spoke in favor of the request. Mr. Beach stated there are three vacant lots. Mr. Beach also responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

Peter Lendh, 2703 Chickasaw Avenue, Louisville, KY 40206

Laura Martin, 2843 Cleveland Blvd., Louisville, KY 40206

Summary of testimony of those in opposition:

01:17:03 Peter Lendh spoke in opposition to the request. Mr. Lendh also responded to questions from the Board Members (see recording for detailed presentation).

01:24:48 Laura Martin spoke in opposition to the request. Ms. Martin also responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

01:29:28 David Beach spoke in rebuttal. Mr. Beach also responded to questions from the Board Members (see recording for detailed presentation).

01:42:11 Board Members' deliberation

01:59:24 On a motion by Board Member Fishman, seconded by Board Member Tharp, the following resolution was adopted:

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WHEREAS, the requested variance will not adversely affect the public health, safety or welfare since the applicant is requesting a variance to construct a 15 foot wide by 42 foot long two story structure reusing a currently vacant lot. Furthermore, the lot that directly abuts the subject site on the northeastern side is vacant, and

WHEREAS, the requested variance will not alter the essential character of the general vicinity since homes located on the block with 20 to 23 foot wide lots sit in close proximity to each other. The nature of the new addition is negligible when the existing structures in the general vicinity are considered, and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public since the 3 inch encroachment into the setback is still within the applicant's property line and does not encroach upon the adjacent property, and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations since setbacks are established to provide consistent building placement, 3 inches is negligible on the eastern side of the home while the western side has a setback greater than the three feet by 2.6 inches, and

WHEREAS, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the applicant's lot was platted well before zoning came into effect per plat book 08-page 35A. Side yard setbacks of less than five feet are common in the area, and

WHEREAS, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant since five foot setbacks would only allow a structure of ten foot width to be built on the parcel/lot, and

WHEREAS, the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since no construction nor ground disturbance has occurred at the subject site at 2705 Chickasaw Ave; now, therefore be it

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RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** Case Number 16VARIANCE1014, Variance from the Land Development Code to allow the west side yard setback to be 2 feet 6 inches, a Variance of 2 feet 6 inches, based on the Standard of Review on Page 2 of 12, and the Additional Considerations going onto Page 3, the discussion and the presentation.

The vote was as follows:

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

Absent: Member Bergmann

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CASE NUMBER 15CUP1047

Request:	Conditional Use Permit to allow outdoor alcohol sales and consumption and waivers in a C-1 zoning district
Project Name:	Craft House
Location:	1030 Goss Avenue
Owner:	Pat Hagan
Applicant:	Pat Hagan
Representative:	Jeffrey Rawlins
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
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:

02:03:23 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:

John Kerley, 1012 Catalpa Drive, Georgetown, IN 47122

Summary of testimony of those in favor:

02:09:45 John Kerley spoke in favor of the request. Mr. Kerley also responded to questions from the Board Members (see recording for detailed presentation).

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02:19:26 **Board Members' deliberation**

02:22:50 On a motion by Vice Chair Jarboe, seconded by Board Member Fishman, the following resolution was adopted:

Conditional Use Permit:

WHEREAS, the proposal is consistent with the applicable policies of the Comprehensive Plan. Screening will be provided around the outdoor area. Item B. 2 of the Comprehensive Plan: The proposal preserves the existing grid pattern of streets, sidewalks, and alleys. The proposal preserves and renovates the existing building and the building design is consistent and an improvement with respect to the predominate neighborhood building design, and

WHEREAS, the subject site is located in an area that has a mix of commercial services, restaurants, residential, and is a focal point for several surrounding neighborhoods. All the commercial uses in the area have similar, scale, intensity, traffic, noise, and lighting, and

WHEREAS, the proposal has been reviewed by Public Works and MSD and both have approved the preliminary plan. The Louisville Fire District has reviewed and approved the proposal, and

WHEREAS, all outdoor areas for the sale and consumption of alcohol shall have designated boundaries. 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 use of outdoor dining areas for the sale and consumption of alcohol shall cease by 1 A.M. The entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99); now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** Case Number 15CUP1047, Conditional Use Permit to allow outdoor alcohol sales and consumption in a C-1 Zoning District, based upon the Staff

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Report and Staff Analysis and justifications on Pages 2 and 3 and the testimony of the applicant, 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 outdoor alcohol sales and consumption without further review and approval by the Board.

The vote was as follows:

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

Absent: Member Bergmann

02:24:18 On a motion by Vice Chair Jarboe, seconded by Board Member Fishman, the following resolution was adopted:

Waiver #1, to omit the required landscaping and buffering along a portion of the southeast property line

WHEREAS, the waiver will not adversely affect adjacent property owners since the building will not be expanded and an existing fence is already in place, and

WHEREAS, Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in

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scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants, and

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the area is near the rear of the existing structure and away from any patrons of the restaurant. The area is also approximately 33 feet from the nearest residential structure, and

WHEREAS, the strict application of the provisions would create an unnecessary hardship on the applicant since the LBA would be located in an area where a high amount of foot traffic from employees will take place, and

Waiver #2, to not have an entrance along the front of the structure facing Goss Avenue

WHEREAS, the waiver will not adversely affect adjacent property owners since the main access to the outdoor area will only be approximately 7 feet from the front sidewalk, and

WHEREAS, Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22

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calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants, and

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the applicant will be adding landscaping along the front of the property along Goss Avenue, and

WHEREAS, the strict application of the provisions would create an unnecessary hardship on the applicant since there will be an entrance near the front of the property, and

Waiver #3, to not have alley access

WHEREAS, the waiver will not adversely affect adjacent property owners since safe vehicular access will be provided along the Goss Avenue entrance, and

WHEREAS, Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when

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incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants, and

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since some residents have expressed concerns about traffic, noise, and trash in the alley if opened up, and

WHEREAS, the applicant will incorporate a 24 foot curb cut along Goss Avenue to allow for safe and efficient movement of vehicles entering and exiting the site; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** Waiver #1, to omit the required landscaping and buffering along a portion of the southeast property line, Waiver #2, to not have an entrance along the front of the structure facing Goss Avenue, and Waiver #3, to not have alley access, based upon the Staff Report, the Standard of Review and Analysis for Waivers on Pages 4, 5 and 6, the testimony of the applicant and the justification of the architect.

The vote was as follows:

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**Yes: Members Fishman, Turner, Tharp, Howard, Vice Chair Jarboe and
Chair Allendorf**

Absent: Member Bergmann

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PUBLIC HEARING

CASE NUMBER 15CUP1004

Request:	Conditional Use Permit to allow a boarding home in an R-6 zoning district
Project Name:	None
Location:	526 Heywood Avenue
Owner:	Ayman Ismail & Omar Al-Kashkish
Applicant:	Ayman Ismail & Omar Al-Kashkish
Representative:	Bill Schroll
Jurisdiction:	Louisville Metro
Council District:	15 – Marianne Butler
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:

02:26:33 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie also responded to questions by the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Bill Schroll, 5450 Southview Drive, Louisville, KY 40214

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Summary of testimony of those in favor:

02:39:08 Bill Schroll spoke on behalf of the applicant in favor of the request. Mr. Schroll also responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

Susan Hughes, 601 W. Jefferson Street, Louisville, KY 40202

Summary of testimony of those in opposition:

02:50:36 Susan Hughes, representative of Councilwoman Marianne Butler (Metro Council District 15), spoke in opposition to the request. Ms. Hughes stated they would request that if this Conditional Use Permit is approved, that Item #3 of the Conditions of Approval state that “there is a property manager on site at ALL TIMES”. Ms. Hughes stated they would also request that there would be some sort of additional landscaping somewhere (see recording for detailed presentation).

02:53:40 Board Members’ deliberation

03:00:07 On a motion by Member Howard, seconded by Vice Chair Jarboe, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 15CUP1004, Conditional Use Permit to allow a boarding home in an R-6 Zoning District, to the May 2, 2016 Board of Zoning Adjustment meeting, to allow the property owner time to come to answer questions that the Board of Zoning Adjustment needs to hear, and **CONTINUE** the request to not add landscaping and buffering to the site also to allow him to come in and explain landscaping and buffering.

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The vote was as follows:

**Yes: Members Fishman, Turner, Tharp, Howard, Vice Chair Jarboe and
Chair Allendorf**

Absent: Member Bergmann

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ADJOURNMENT

The meeting adjourned at approximately 11:47 a.m.

Chair

Secretary