

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

**July 7, 2014**

A meeting of the Louisville Metro Board of Zoning Adjustment was held at 8:30.A.M. on Monday, July 7, 2014, 514 West Liberty Street, Old Jail Building, Old Jail Court Room, Louisville, Kentucky.

**Members present were:**

David Proffitt, Chairperson  
Mike Allendorf, Vice Chairperson  
Rosalind Fishman, Secretary  
Frederick Liggin  
Dean Tharp

**Members absent:**

Betty Jarboe

**Staff members present were:**

Emily Liu, Director, Planning & Design Services  
Jonathan Baker, Legal Counsel  
Jessica Wethington, Planning Information Specialist  
Steve Hendrix, Planning Supervisor  
Rebecca Simmons, Executive Assistant  
Sherie' Long, Landscape Architect  
Jon Crumby, Planner II  
Lee Wells, Planning Technician  
Beth Stevenson, Management Assistant

The following cases were heard:

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**APPROVAL OF MINUTES:**

**JUNE 16, 2014 BOARD OF ZONING ADJUSTMENT MEETING MINUTES**

On a motion by Member Tharp, seconded by Member Fishman, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on June 16, 2014

**YES: Members Proffitt, Tharp, Allendorf, Liggin, Fishman and Bergmann.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Jarboe.**

**ABSTAINING: No one.**

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**JULY 7, 2014**

**NEW BUSINESS:**

**CASE NO. 14VARIANCE1050**

**Request:** Variances and Waivers associated with a church expansion.

**Project Name:** New Birth Church of Louisville

**Location:** 3301 Linda Lane & 3926 Cane Rune Road

**Owner:** New Birth Church of Louisville, Inc.  
Ebony R. Pryor, Business Administrator  
3301 Linda Lane  
Louisville, KY 40211

**Applicant:** Same as owner

**Representative:** Evans/Griffin, Inc.  
James L. Griffin  
4010 Dupont Circle, Suite 478  
Louisville, KY 40207

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 1—Attica Scott**

**Staff Case Manager:** Latondra Yates, Planner II

**(REMOVED BY STAFF)**

**An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the July 7, 2014 public hearing proceedings.**

Chair Proffitt asked if this case has been rescheduled. Steve Hendrix, Planning Supervisor, said yes.

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**NEW BUSINESS:**

**CASE NO. 14VARIANCE1051**

**Request:** Variances and Waivers for a proposed building addition.

**Project Name:** Meredith Dunn Learning Center

**Location:** 3023 Melbourne Avenue

**Owner:** Meredith Dunn School  
Kathy Beam, Authorized Agent  
3023 Melbourne Avenue  
Louisville, KY 40220

**Applicant:** Same as owner

**Representative:** Alex Rosenberg, P.E.  
Alex Rosenberg  
2518 Hermitage Way  
Louisville, KY 40242

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 26—Brent Ackerson**  
**Staff Case Manager:** Latondra Yates, Planner II

**(REMOVED BY STAFF)**

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Chair Proffitt asked if this case has been rescheduled. Steve Hendrix, Planning Supervisor, said yes.

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**NEW BUSINESS:**

**CASE NO. 14VARIANCE1053**

**Request:** Variance to allow proposed garage and covered walkway to encroach into the required front yard.

**Project Name:** New Addition

**Location:** 2003 Rio Vista Drive

**Owner:** Java & W. Barrett Nichols  
2003 Rio Vista Drive  
Louisville, KY 40207

**Applicant:** Same as owner

**Representative:** Beverly D. Baker, Architect  
Beverly Baker  
230 Albany Avenue  
Louisville, KY 40206

**Jurisdiction:** City of Indian Hills

**COUNCIL DISTRICT 7—Ken Fleming**  
**Staff Case Manager: Sherie' Long**

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

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

**Agency Testimony:**

Staff Case Manager, Sherie' Long discussed the case summary, standard of review and staff analysis from the staff report. The applicant is proposing to construct a new single car garage, which will be connected to the house by a

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covered walkway. She said the City of Indian Hills is not opposed and is ready to issue the building permit.

**The following spoke in favor of this request:**

Beverly D. Baker, Architect, 230 Albany Avenue, Louisville, KY 40206.

**Summary of testimony of those in favor:**

Beverly Baker, the applicant's architect, said she received signatures of approval from adjacent property owners, and had no objections to building the garage.

**The following spoke neither for nor against the request:**

No one.

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

No one.

**The following spoke in opposition to this request:**

No one.

**Summary of testimony of those in opposition:**

No one.

**Deliberation:**

Board of Zoning Adjustment deliberation.

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After the public hearing in open business session, on a motion by Member Allendorf, seconded by Member Fishman, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the

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evidence, testimony and discussion at the public hearing that the applicant is requesting a variance from the Development Code, Article 4.6.C.2(a), to allow a single car garage addition and covered walkway to encroach into the required front yard; and

**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the proposed new garage is located on a private access road which is approximately 40 feet from the public right-of-way of Rio Vista Drive; and because the access road is very narrow (approximately 10' wide), but there is a pull off located directly in front of the proposed new garage, therefore, cars can pass safely in that location; and because the narrow width of the access road also slows traffic which creates favorable driving and safety conditions; plus, the portion of the access road along the applicant's property is not visible from the public right-of-way along Rio Vista Drive; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public because the private access road is used by only 4 properties, 2 of which are beyond the applicant's property; and because the garage has been located so a car can exit safely; and because there is a steep, heavily vegetated slope between the public right-of-way along Rio Vista Drive so the garage is not visible to the general public; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because this lot is being accessed by a private drive instead of the public right-of-way, which requires the location of the setback to be off the private access road; and because of the existing steep terrain of the property, the proposed location of the new garage, covered walkway and garden area are in the best locations for the existing situation; and

**WHEREAS**, the Board finds that the variance arises from special circumstances which do not generally apply to land in the general vicinity or same zone because the private access road has created a special circumstance since the setback is measured from the access road and not the public right-of-way; and because the steep terrain is also a special circumstance concerning the location of the location of the garage for access to the private drive and public street; and

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**WHEREAS**, the Board finds that 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 because the proposed new garage and covered walkway would not be able to be built, therefore, depriving the owners the use of their land; and

**WHEREAS**, the Board finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought because of the existing steep terrain and the location of the house;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow a proposed new garage and covered walkway to be 5 feet from the front property line.

**YES: Members Proffitt, Tharp, Allendorf, Liggin, Fishman and Bergmann.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Jarboe.**

**ABSTAINING: No one.**



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**NEW BUSINESS:**

**CASE NO. 14VARIANCE1054**

**Request:** Variance from the Development Code, Article 4.6.C.2(b) to allow a proposed addition to encroach into the required side yard (southeastern).

**Project Name:** Residential Addition

**Location:** 1004 Williamsburg Court

**Owner:** F. William (Will) & Tathyana Fensterer  
1004 Williamsburg Court  
Louisville, KY 40207

**Applicant:** Same as Owners

**Representative:** Owner

**Jurisdiction:** City of St. Matthews

**COUNCIL DISTRICT 26—Brent Ackerson**

**Staff Case Manager:** Sherie' Long, Landscape Architect

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

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

**Agency Testimony:**

Staff Case Manager, Sherie' Long discussed the case summary, standard of review and staff analysis from the staff report. She said the applicant is proposing a 8' x 14' x 28" addition cantilevered out from the existing house wall; and will be approximately 12 feet from the adjacent neighbor's façade. Chair Proffitt asked if the property was surveyed. Ms. Long said to ask the applicant.

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**The following spoke in favor of this request:**

Will Fensterer, 1004 Williamsburg Court, Louisville, KY 40207.

**Summary of testimony of those in favor:**

Will Fensterer, the owner, said his neighbor just had his property surveyed; and he measured it from one of the markers.

**The following spoke neither for nor against the request:**

No one.

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

No one spoke neither for nor against the proposal.

**The following spoke in opposition to this request:**

No one.

**Summary of testimony of those in opposition:**

No one spoke in opposition.

**Deliberation:**

Board of Zoning Adjustment deliberation.

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After the public hearing in open business session, on a motion by Member Allendorf, seconded by Member Fishman, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the applicant's justification, the evidence, testimony and discussion at the public hearing that the applicant is requesting a variance from the 2001 Development

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Code, Article 4.6.C.2(b), to allow a proposed addition to encroach into the required southeastern side yard; and

**WHEREAS**, the Board finds that the requesting variance will not adversely affect the public health, safety or welfare because the proposed projecting addition is located on the side of the house and there will be approximately 12 feet between the adjacent structure and the new addition; and because 12 feet is the minimum setback when the 6 foot minimum side yard is applied to both properties; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity because the projecting addition will be located 12 feet from the adjacent neighbor's house, which is the minimum allowed when the 6 foot side yard is applied to both adjoining properties; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public because the proposed projecting addition is located on the side of the house located approximately 12 feet from the adjacent structure; and  
`because the existing wall and landscaping will be maintained; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the projecting addition will not be any closer to the adjoining structure than the allowed 12 feet which is the minimum allowed when the 6 foot side yard is applied to both adjoining properties; and

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow a proposed addition to be 2.33 feet from the southeastern property line.

**YES: Members Proffitt, Tharp, Allendorf, Liggin, Fishman and Bergmann.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Jarboe.**

**ABSTAINING: No one.**

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**NEW BUSINESS:**

**CASE NO. 14DEVPLAN1035 & 14VARIANCE1058**

**Request:** Variance from the Land Development Code to allow the proposed structure not to be built at the corner; a waiver to omit the required Landscape Buffer Area (LBA); and a Category 3 Review.

**Project Name:** Filson Historic Society museum expansion and renovation.

**Location:** 1309 4<sup>th</sup> Street and 1310 South 3<sup>rd</sup> Street

**Owner:** Filson Historic Society, Inc.  
Dee Dewitt, Chief Financial Officer  
1310 South 3<sup>rd</sup> Street  
Louisville, KY 40208

**Applicant:** Same as owner

**Representative:** MKSK  
Andrew Knight  
163 East Main Street  
Lexington, KY 40507

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 6—David James**

**Staff Case Manager:** Jon Crumbie, Planner II

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

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

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**Agency Testimony:**

Staff Case Manager, Jon Crumbie discussed the case summary, standard of review and staff analysis from the staff report. He said the applicant's proposal includes the new lecture hall and archival material building; the carriage house renovation and pedway connector bridge; and the mall or open public plaza area that will promote pedestrian circulation and public open space. The applicant will be doing extensive landscaping and include new parking areas.

**The following spoke in favor of this request:**

Andy Knight, MKSK, 163 East Main Street, Lexington, KY 40507.

David Mayo, Deleon & Primmer Architecture, 117 S. Shelby Street, Louisville, KY 40202.

**Summary of testimony of those in favor:**

Andrew Knight, the applicant's representative, said the edge of the wall and the sidewalk will be continuous; and that they will be replacing the sidewalk since it is in poor shape.

David Mayo, the applicant's architect, said they worked with Landmarks staff regarding the alignment of the building with other structures on 4<sup>th</sup> Street and Ormsby.

**The following spoke neither for nor against the request:**

No one.

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

No one spoke as an interested party.

**The following spoke in opposition to this request:**

No one.

**Summary of testimony of those in opposition:**

No one spoke in opposition to the request.

**Deliberation:**

Board of Zoning Adjustment deliberation.

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**CASE NO. 14DEVPLAN1035 & 14VARIANCE1058**

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**Variance—To not hold the corner of 4<sup>th</sup> Street and W. Ormsby Avenue:**

After the public hearing in open business session, on a motion by Member Allendorf, seconded by Member Fishman, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a variance to not hold the corner of 4<sup>th</sup> Street and West Ormsby Avenue; and

**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the plan is to transform the existing surface parking near the corner into a green space reducing impervious surface areas and the heat island effect; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity because the structure will be compatible with the existing architecture of the area and will allow green space to be established; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public because pedestrian access and landscaping will be improved in the area with no sight distance concerns; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the proposed location of the structure will allow the green space to be developed as shown on the plan with a reduction of the heat island effect; and

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**WHEREAS**, the Board finds that 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 because the proposed structure is connected to the existing structure on 3<sup>rd</sup> Street by an elevated pedway that would become unfeasible; and

**WHEREAS**, the Board 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 because the Old Louisville ARC had approved the site plan layout in 2010; and because the new request has minor adjustments that have been approved by the Urban Design staff;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow the proposed structure to not hold the corner of 4<sup>th</sup> Street and Ormsby Avenue by 114 feet.

**YES: Members Proffitt, Tharp, Allendorf, Liggin, Fishman and Bergmann.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Jarboe.**

**ABSTAINING: No one.**

**Waiver—To omit the Landscape Buffer Area (LBA) and plantings along the west property line:**

After the public hearing in open business session, on a motion by Member Allendorf, seconded by Member Fishman, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a waiver to omit the required 5 ft. LBA and plantings along the west property line; and

**WHEREAS**, the Board finds that the requested waiver will not adversely affect adjacent property owners because the situation already exists; and

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**WHEREAS**, the Board finds that the waiver will not violate specific Guidelines of Cornerstone 2020, specifically, Guideline 3, Policy 9, which calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate; and because 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 cause 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, dirt, litter, junk, outdoor storage and visual nuisances; and because 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; and because Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban and rural areas; and because Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses; and because 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 and water borne pollutants; and

**WHEREAS**, the Board finds that the extent of the waiver is the minimum necessary to afford relief to the applicant to allow for the development of open/green space near the corner; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring access and parking to be moved and plantings installed at an increased cost;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waiver to omit the required 5 foot LBA and plantings along the west property line.



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**YES: Members Proffitt, Tharp, Allendorf, Liggin, Fishman and Bergmann.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Jarboe.**

**ABSTAINING: No one.**

**Category 3 Review:**

After the public hearing in open business session, on a motion by Member Allendorf, seconded by Member Fishman, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds, from the file of this case, the staff report, the site plan, the PowerPoint presentation(s); the renderings, the evidence and testimony submitted at the public hearing, that the applicant is requesting a Category 3 Review for the construction of a new lecture hall and archival building; a carriage house renovation and pedway connector bridge; and the mall or open public plaza area that will promote pedestrian circulation and public open space including new landscaping and new parking areas;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Category 3 plan to construct a new lecture hall and archival building; a carriage house renovation and pedway connector bridge that will connect the existing Filson Club with the new lecture hall; and the mall or open public plaza area that will promote pedestrian circulation and public open space including new landscaping and new parking areas.

**YES: Members Proffitt, Tharp, Allendorf, Liggin, Fishman and Bergmann.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Jarboe.**

**ABSTAINING: No one.**

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**The meeting adjourned at 9:36 a.m.**

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**CHAIRPERSON**

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**SECRETARY**