

**MINUTES OF THE MEETING**  
**OF THE**  
**LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**  
**SEPTEMBER 21, 2015**

A meeting of the Louisville Metro Board of Zoning Adjustment was held at 8:45 A.M. on Monday, September 21, 2015, 514 West Liberty Street, Old Jail Building, Old Jail Court Room, Louisville, Kentucky.

**Members present:**

David Proffitt, Chairperson  
Rosalind Fishman, Secretary  
Betty Jarboe  
Frederick Liggin  
Dean Tharp  
\*Paul Bergmann

**Members absent:**

Mike Allendorf, Vice Chairperson

**Staff members present:**

Emily Liu, Director, Planning & Design Services  
John Carroll, Legal Counsel  
Jonathan Baker, Legal Counsel  
Jessica Wethington, Planning Information Specialist  
Steve Hendrix, Planning Supervisor  
Joe Reverman, Planning Manager  
Sherie Long, Landscape Architect  
Jon Crumble, Planner II  
Beth Stevenson, Management Assistant

**Others present:**

Mary Ellen Wiederwohl, Chief, Louisville Forward  
Theresa Zawacki, Senior Policy Advisor, Louisville Forward  
WDRB  
WLKY

\*Member Bergmann left the meeting at 2:59 p.m.

The following cases were heard:

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**APPROVAL OF MINUTES**

**1.) AUGUST 17, 2015 BOARD OF ZONING ADJUSTMENT MEETING  
MINUTES**

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

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on August 17, 2015.

**YES: Members Fishman, Tharp, Jarboe, Bergmann, Turner and Proffitt.**

**NO: No one.**

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

**ABSTAINING: No one.**

**2.) AUGUST 24, 2015 BOARD OF ZONING ADJUSTMENT SPECIAL  
MEETING MINUTES**

Member Bergmann noted a correction to the August 24, 2015 special meeting minutes; and was seconded by Member Fishman. Upon correction, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the special meeting conducted on August 24, 2015 with a correction.

**YES: Members Fishman, Tharp, Jarboe, Bergmann, Turner and Proffitt.**

**NO: No one.**

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

**ABSTAINING: No one.**

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**BUSINESS SESSION:**

**CASE NO. 13CUP1011**

**Request:** Status Report as per Condition of Approval #5, heard by the Board on March 17, 2014

**Project Name:** JBS/SWIFT Equipment Report

**Location:** 1200 Story Avenue

**Owner:** JBS USA, LLC & Swift Pork Company  
1700 Promontory Circle  
Greeley, Colorado 80634

**Applicant:** JBS USA, LLC  
John Cliff, Vice President & General Manager  
1200 Story Avenue  
Louisville, KY 40206

**Attorney's:** Glenn Price, Esq. & Dennis J. Conniff, Esq.  
Frost Brown Todd, LLC  
400 West Market Street, Suite 3200  
Louisville, KY 40202

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 4—David Tandy**

**Staff Case Manager: Steve Hendrix, Planning Supervisor**

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.

Information from the applicant and opposition was incorporated into the record. The Board received this information in advance of the meeting, and was made available to any interested party prior to the meeting. (The information 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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**CASE NO. 13CUP1011**

**DISCUSSION:**

Glenn Price Attorney for the applicant and Dennis Conniff, the applicant's environmental attorney were sworn in. Mr. Conniff said his client is ordering two more AirCode® units; and is still waiting on the AquaCode® equipment to arrive. He said the AquaCode® equipment will be tested to clean the scrubbers without chlorine which is corrosive and what they previously tested. He said the equipment is manufactured in Sweden and takes time to get through US customs. Mr. Conniff discussed other mitigation efforts for the stock trucks and settlement discussions with APCD for previous violations. He said they are not aware of any outstanding alleged odor violations from APCD.

Chair Proffitt asked Mr. Conniff if they would know something by March 2015. Mr. Conniff said he could not commit, but is what they're hoping for. Mr. Conniff said he was submitting draft information to APCD. Chair Proffitt said to submit it to staff for the file. Mr. Conniff agreed.

Jonathan Salomon, Attorney for the Butchertown Neighborhood Association, said this is the third update and doesn't seem like any progress is being made. He said the next update should be set for a public hearing. Chair Proffitt said they are meeting the condition of approval reporting to the Board with their progress; and said it's taking more time to special order this equipment.

Member Jarboe asked the Board's legal counsel, Jonathan Baker, what their options are. Mr. Baker said the Board can't make a decision at this point, since they are still trying to resolve the problem. He said the Board could later revoke the Modified Conditional Use Permit, if the odor issue isn't resolved; which would have to be noticed etc.

**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 September 21, 2015 public hearing proceedings.**

**The Board will meet again in 6 months to determine if the applicant should need more time to test and implement the new equipment for odor control.**

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**NEW BUSINESS:**

**CASE NO. 15DEVPLAN1108**

**Request:** Modified Conditional Use Permit to allow the relocation of a proposed entrance; reduce the square footage of structures and parking area.

**Project Name:** Pet Station Country Club

**Location:** 4802 & 4804 Murphy Lane

**Owner:** Daniel Watson & Donna Campbell  
4604 Leesburg Court  
Louisville, KY 40241

**Applicant:** Spectrum Contracting Services, Inc.  
Jason A. Hunsucker  
108 Wind Haven Drive, Suite B  
Nicholasville, KY 40356

**Representative:** Heritage Engineering, LLC  
John Campbell  
642 South 4<sup>th</sup> Street, Suite 100  
Louisville, KY 40202

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 17—Glen Stuckel**

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

Information from the applicant was incorporated into the record. The Board received this information in advance of the meeting, and was made available to any interested party prior to the meeting. (The information is part of the case file maintained at the Planning and Design Services offices located at 444 S. 5<sup>th</sup> Street).

The applicant applied for a Modified Conditional Use Permit on August 17, 2015, for the previously approved Conditional Use Permit filed under Case No. 14CUP1048 for Pet Station Country Club commercial kennel. The original hearing was on June 15, 2015.

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On September 21, 2015, the Board held a meeting for a non-hearing Modified Conditional Use Permit which was held in business session. A drawing showing the premises affected and the existing and/or proposed construction was presented to each Board member.

**DISCUSSION:**

Jon Crumbie, the case manager, said the applicant would like to make the following changes:

- Relocation of the proposed entrance approximately 160 feet south, along Murphy Lane to allow for a proposed detention basin to be placed within the low portion of the property.
- Reduce the proposed 15,000 sf building area by 5,000 sf (33% reduction) to a new proposed building area of 10,000 sf.
- Reduce the proposed 7,000 sf indoor dog park by 2,000 sf (28% reduction) to a new indoor dog park area 5,000 sf
- Reduce the proposed 48 parking spaces by 16 spaces (33% reduction) to a total of 32 proposed parking spaces.

**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 September 21, 2015 business session proceedings.**

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

**WHEREAS**, the Board finds from the file of this case, the information submitted by the applicant; the site plan; PowerPoint presentations and discussion, that the applicant is requesting a modification of an approved Conditional Use Permit to allow the relocation of the proposed entrance; reduce the square footage of the proposed buildings; and reduce the number of parking spaces; and

**WHEREAS**, the Board finds that the requests will allow for the construction of a detention basin within the low lying portion of the property for drainage; a reduction in the size of buildings and a reduction in the number of parking areas; and because the kennel operation, including the kennel building, indoor/outdoor

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dog park area (excluding parking) will continue to only use 2 acres of the 6 total acres onsite; and

**WHEREAS**, the Board finds the proposal to be in conformance with the Comprehensive Plan because it complies with all applicable guidelines, principles and objectives; and it has received preliminary approval from Transportation Review and Louisville and Jefferson County Metropolitan Sewer District;

**RESOLVED**, that the modification of the existing Conditional Use Permit is hereby **APPROVED**, for revisions to the site plan for a commercial kennel based on the previously approved conditions of approval.

**YES: Members Fishman, Tharp, Jarboe, Bergmann, Turner and Proffitt.**

**NO: No one.**

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

**ABSTAINING: No one.**

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**NEW BUSINESS:**

**CASE NO. 15DEVPLAN1108**

**Request:** Category 3 Plan Review with two variances and two waivers.

**Project Name:** West Louisville Food Port

**Location:** 3029 West Muhammad Ali Boulevard

**Owner:** Louisville Metro Government  
Mayor Greg Fischer  
527 W. Jefferson Street  
Louisville, KY 40202

Jeff Mosley, Director of Economic Growth & Innovation  
444 S. 5<sup>th</sup> Street  
Louisville, KY 40202

**Applicant:** Seed Capital KY  
Caroline Heine/Stephen Reily  
200 York Street  
Louisville, KY 40203

**Attorney:** Valenti Hanley & Robinson, PLLC  
Kyle P. Galloway  
401 West Main Street, Suite 1950  
Louisville, KY 40202

**Representative:** Sabak, Wilson & Lingo, Inc.  
Kelli Jones, RLA/ASLA  
608 South Third Street  
Louisville, KY 40202

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 5—Cheri Bryant Hamilton**

**Staff Case Manager:** Christopher Brown, Planner II, presented by Joe Reverman, Planning Manager



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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:**

Joe Reverman, Planning Manager, presented the case for staff case manager Chris Brown and discussed the case summary, standard of review and staff analysis from the staff report. He said the applicant is proposing the construction of several buildings with a mix of office, retail, warehouse, agriculture and museum uses totaling 177,205 square feet. He said the site is located between Muhammad Ali and 30<sup>th</sup> Street with railroad tracks near the property. He said the requests are justified because the design will allow some of the buildings to be built to the corners; does not have a lot of parking between the street and the building; adequate pedestrian connections and open space. Mr. Reverman said information was submitted late Friday, and was included on the public website.

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

Kyle Galloway, Attorney, 401 W. Main Street, Suite1950, Louisville, KY 40202.

Stephen Reily, SEED Capital Kentucky, 200 York Street, Louisville, KY 40203.

Bonnie Cole, 3512 Del Park Terrace, Louisville, KY 40211.

Marshall Gazaway, 425 Claver Court #56, Louisville, KY 40203.

Pastor Chad Rehnberg, 4433 W. Market Street, Louisville, KY 40212.

Mike White, 2910 W. Jefferson Street, Louisville, KY 40212.

Revered Milton Seymore, Chairman of the Justice Resource Center, 2906 Aspendale Court, Louisville, KY 40241.

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Lewis B. Shockma, 3001 W. Main Street, Louisville, KY 40205.

Theresa Zawacki, Senior Policy Advisor of Louisville Forward, 444 S. 5<sup>th</sup> Street, Louisville, KY 40202.

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

Kyle Galloway, the applicant's attorney, said there are several people from the area that would like to speak.

Stephen Reily, the applicant, presented a PowerPoint presentation and explained the site constraints with an active railroad where the elevation drops considerably. He said they will be connecting various portions of the property to the streets and the open space aspect of the design will be inviting to passersby. Mr. Reily explained where the delivery areas will be and that parking will be behind the building. He said they have had numerous meetings over the years with the community and the city; and removed the biodigester from the proposal due to opposition. He said their proposal will be a great asset to the community creating jobs and include family friendly activities.

Bonnie Cole said she supports the development because this site has been blighted for a long time; and the development will bring jobs and positive activities to the area. She said she thinks it will encourage people to buy homes in the area and decrease vacant and abandoned properties. She said she hopes other people will be in favor of it too.

Marshall Gazaway said he is president of the Beecher Terrace Community Council and has lived in the area a long time. He said this project will bring fresh fruits and vegetables to the area; and that the garden will be a great learning environment for the younger generation and be convenient for local farmers. .

Pastor Chad Rehnberg said he has lived at 44<sup>th</sup> and Market for the last 9 years with his wife and 4 children. He said there are more good people than bad in the area; and that the youth of this community deserve it. Pastor Rehnberg said he supports this wholeheartedly.

Mike White said he is the co-founder of Our Father's House, a sober living and transitional facility for men; and a business owner in the area. He said the proposal is a very positive project for the community and said the men living in

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the transitional facility need real jobs. He said he is very grateful for the project and suggested including more retail.

Revered Milton Seymore, Chairman of the Justice Resource Center, said bringing in fresh fruits and vegetables is ideal for the area. He said he is also a farmer and said this will create opportunities for people to have gardens, and buy local like the Old Hay Market. He also likes the jobs it will create and be a positive place for the kids in the neighborhood.

Lewis B. Shockman said this is a “state of the art” project and will be a development that people from other states will visit and possibly implement in their own communities. He said it will benefit farmers so they won’t have to drive so far to cultivate and delivery produce. He said west Louisville needs more revitalization.

Theresa Zawacki, Senior Policy Advisor of Louisville Forward, said this proposal will be an economic giant to the area and be an international model for other cities to copy. She said the variances and waivers are justified; and that the proposal, including the design, will stabilize the property and strengthen the community. Chair Proffitt asked about public transportation stops. Ms. Zawacki said they have had discussions with TARC to get more stops closer to the site. Chair Proffitt said it looks like there’s a parking area in front of one of the buildings. Ms. Zawacki said this is for the visitor’s center and will be heavily screened with trees and other landscaping.

Mr. Galloway interjected and said there are existing bus stops, but more will be increased along Market and 26<sup>th</sup>. Member Bergmann said he is concerned about adequate landscaping and overflow parking into the neighborhoods. Mr. Galloway said they’ve hired a reputable landscape company who will be working on it in phases. He added that the lighting and signage will comply with the Land Development Code.

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

No one.

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

No one.

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

Martina Kunnecke, 313 Northwestern Parkway, Louisville, KY 40212.

Kathleen Parks, Kentucky Alliance, P.O. Box 1543, Louisville, KY 40211.

Sylvia Wright, 116 Fontaine Landing Court, Louisville, KY 40212.

John Owen, Vice President of Portland Business Association, 620 N. 28<sup>th</sup> Street, Louisville, KY 40212.

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

Martina Kunnecke, said she is an advocate and represents various neighborhood groups and individuals when asked. She said that the developer has not included them in all the meetings, and that sometimes developers say they'll do something and they don't. Ms. Kunnecke said this is a 24-acre site and doesn't want to see another failure. She said the design looks like an airport and should look more urban in nature for compatibility.

Kathleen Parks, with Kentucky Alliance said there wasn't a fair bidding process with minority contracts and feels this could set a negative precedent for other upcoming developments. She said she is not opposed to new development and job creation, but feels there has been a lack of due process; and that Portland has been left out of the negotiations.

Sylvia Wright said she has lived in the west end since 1980; and feels projects are coming through without any of their input. She said her neighborhood started getting involved when they heard about the methane biodigester that they are totally opposed to. She said she feels they've been lied to and doesn't know if this will be like the old Hay Market. She asked the Board to deny the requests and said she doesn't like the design.

John Owen, said he is Vice President of Portland Business Association, was appointed by Cheri Bryant Hamilton when creating the Portland Neighbor Plan; was on the Russell Task Force and other neighborhood initiatives. Mr. Owen presented a PowerPoint presentation showing other existing buildings which are constructed to the sidewalk; and said there isn't any other buildings in the area that aren't built to the sidewalk. Mr. Owen said this development should fully comply with Cornerstone 2020 and the Land Development Code; and is unclear

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what the applicant is doing since the plans have changed. He said the USDA doesn't recognize what a "Food Port" is for safety regulations. Mr. Owen said he would like to know how many jobs the development will create, since the previous Grasshopper business only employed 2-4 people. He said the design and asphalt material doesn't blend with the existing buildings and would like a more practical design that could be reused. Mr. Owen said he is opposed to the requests and would like more time to meet with the applicant to reconsider the design.

**Rebuttal:**

Mr. Galloway said they are using a wide variety of materials that are similar to what's in the neighborhood. He said they've spent numerous hours over the years and started a community group for residents or anyone interested to participate. He said they currently have 58 members; and remains open for new members.

Chair Proffitt asked when and where the meetings were held. Ms. Zawacki said at America's Finest Filters business at 4:30 or 5:00 p.m.

**Deliberation:**

Member Bergmann said they deal with variances and waivers individually per case. He said he understands the design considering the railroad and viaduct. Member Fishman said she thinks they should use less cement, but likes the pedestrian friendly aspect of it. Member Jarboe questioned the viability of the uses and said non-profit businesses come and go. Chair Proffitt said no one can predict if a business will succeed or fail. He said a solid wall down 2 ½ city blocks would, in his opinion look terrible; and that large portions of the buildings would be built to the sidewalk. Chair Proffitt suggested adding a condition of approval that the landscaping will be substantially the same as what was presented at today's hearing, if they should decide to approve the requests. Jon Baker, the Board's legal counsel, said the Board could include other conditions of approval as they pertain to the relief requested.

**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 September 21, 2015 public hearing proceedings.**

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**Variances—To allow the proposed building to not be built at the corner of South 30<sup>th</sup> Street and West Muhammad Ali Blvd.; and to allow the proposed building to not be built at the corner of South 30<sup>th</sup> Street and West Market Street:**

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

**WHEREAS**, the Board 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 including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a variance from Chapter 5.5.1.A.2 of the Land Development Code to allow the proposed buildings not to be built at the corner of South 30<sup>th</sup> Street West Muhammad Ali Boulevard by 30 feet (requirement 0; a variance of 30 feet); and a variance from Chapter 5.5.1.A.2 of the Land Development Code to allow the proposed building to not be built at the corner of South 30<sup>th</sup> Street and West Market Street to 85 feet (requirement 0 or a variance of 85 feet); and

**WHEREAS**, the Board finds that the requested variances will not adversely affect the public health, safety or welfare since safe pedestrian access is provided from the public right-of-way to the building entrance and programmed outdoor space will be located along these street right-of-way (ROW) intersections; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity since the proposed setbacks will follow a pattern of varying setbacks within the general vicinity of the subject site and significant features of the proposed use will be located at the ROW intersections; and

**WHEREAS**, the Board finds that the variances will not cause a hazard or nuisance to the public since safe pedestrian access is provided from public rights-of-way to the building entrance; and since safe vehicular maneuvering has been provided; and

**WHEREAS**, the Board finds that the variances will not allow an unreasonable circumvention of the zoning regulations since the proposed setbacks will follow a pattern of varying setbacks within the area; and

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**WHEREAS**, the Board finds that the variances arise from special circumstances which do not generally apply to land in the general vicinity or the same zone since the size of the lot with three major street frontages makes it difficult to hold a 0' setback along both ROW intersections; and

**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 by not allowing the proposed structure on the site with accommodations for the proposed outdoor plaza and focal point facilities; 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 since the size of the lot and multiple street frontages existed prior to the zoning regulation;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variances.

**The variances allow:**

1. The proposed building to be 30 feet from South 30<sup>th</sup> Street and West Muhammad Ali Boulevard.
2. The proposed building to be 85 feet from South 30<sup>th</sup> Street and West Market Street.

**YES: Members Fishman, Tharp, Jarboe, Bergmann, Turner and Proffitt.**

**NO: No one.**

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

**ABSTAINING: No one.**

**Waiver—To allow the proposed building to not be parallel to the street on both street sides:**

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

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**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review the site plan; the PowerPoint presentations; the evidence including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a waiver from Chapter 5.5.1.A.1.a. of the Land Development Code to allow the proposed building to not be parallel to the street on both sides; and

**WHEREAS**, the Board finds that the requested waiver will not adversely affect adjacent property owners since safe pedestrian and vehicular access will be provided from the public rights-of-way to the building entrance; and

**WHEREAS**, the Board finds that the waiver will not violate specific guidelines of Cornerstone 2020 because Guideline 2, Policy 12 calls to encourage large developments in activity centers to be compact, multi-purpose centers designed around a central feature such as a public square or plaza or landscaped element; and because Guideline 3, Policy 1 calls for new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district; and because the proposed building has orientation and layout toward South 30<sup>th</sup> Street with a focal point plaza located along the terminus of Jefferson Street and incorporates several public plaza spaces along the other two street frontages; and

**WHEREAS**, the Board finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant to allow the layout of the building to incorporate the proposed uses within the needed square footage; and

**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 would create an unnecessary hardship on the applicant by requiring a parallel orientation toward the street frontage that could impede the layout and needed incorporation of the uses with one another on the subject site;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waiver to allow the proposed building to not be parallel to the street on both street sides.



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**YES: Members Fishman, Tharp, Jarboe, Bergmann, Turner and Proffitt.**

**NO: No one.**

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

**ABSTAINING: No one.**

**Waiver—To allow parking in front of the buildings without a required 3' tall masonry wall:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review the site plan; the PowerPoint presentations; the evidence including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a waiver from Chapter 5.5.1.A.3.a. of the Land Development Code to allow parking in front of the buildings without a required 3' tall masonry wall; and

**WHEREAS**, the Board finds that the requested waiver will not adversely affect adjacent property owners since safe pedestrian access is provided from the public right-of-way to the building entrance; and

**WHEREAS**, the Board finds that the waiver will not violate specific guidelines of Cornerstone 2020 because Guideline 2, policy 15 states to encourage the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations; and because Guideline 3, policy 1 states to ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district; and because Guideline 3, policy 23 states that setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines; and because Guideline 7, policy 3 states to evaluate developments for their ability to promote mass transit and pedestrian use, encourage higher density mixed use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation choices; and because Guideline 9, policy 1 states that new development and redevelopment should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with location of retail and office uses, especially in the Traditional Neighborhood, Village, Marketplace

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Corridor, Traditional Workplace Form Districts close to the roadway to minimize the distance pedestrians and transit users have to travel; and because the purpose of the requirement is to promote mass transit and pedestrian use and reduce vehicle trips in and around the site, and to reduce the distance pedestrians and transit users have to travel; and because the waiver is compatible with the pattern of development within the form district since the majority of parking is located to the rear of the building and landscaping will be used to screen the parking areas from the street frontages; and because the design and layout of the proposal heavily emphasize the ability for access via multiple modes of transportation; and

**WHEREAS**, the Board finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the majority of the parking has been located to the rear of the structure with the structure being oriented toward South 30<sup>th</sup> Street and screening elements will be met using landscaping; and

**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 would create an unnecessary hardship on the applicant by eliminating the parking area along West Muhammad Ali Boulevard and portions along West Market Street that are located to incorporate with the unique design and layout of the structure;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waiver to allow parking in front of the buildings and eliminate the required 3 foot tall masonry wall.

**YES: Members Fishman, Tharp, Jarboe, Bergmann, Turner and Proffitt.**

**NO: No one.**

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

**ABSTAINING: No one.**

**Category 3 Plan:**

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

**WHEREAS**, the Board finds, from the file of this case, the staff report, the site plan, the PowerPoint presentation(s); the renderings, the evidence including the

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applicant's justification and testimony submitted at the public hearing, that the applicant is requesting approval of a Category 3 Plan for the construction of a series of buildings that will contain a mix of office, retail, warehouse, agriculture, outdoor plaza and museum uses;

**WHEREAS**, the Board finds the proposal to be in conformance with the Comprehensive Plan because it complies with all applicable guidelines, principles and objectives of the Comprehensive Plan, as it has received preliminary approval from Transportation Review and Louisville and Jefferson County Metropolitan Sewer District;

**RESOLVED**, that the Board does hereby **APPROVE** the Category 3 plan to construct a series of buildings that will contain a mix of office, retail, warehouse, agriculture, outdoor plaza and museum uses **ON CONDITION** that the landscaping be substantially the same as what was presented at today's hearing.

**YES: Members Fishman, Tharp, Jarboe, Bergmann, Turner and Proffitt.**

**NO: No one.**

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

**ABSTAINING: No one.**

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**NEW BUSINESS:**

**CASE NO. 15VARIANCE1051**

**Request:** Variance to allow the proposed building height to exceed the maximum 35' allowed.

**Project Name:** Bush Farm Retirement Community

**Location:** 2400 Arnold Palmer Blvd.

**Owner:** LF Land Company, LLC  
Neil A. Mitchell, Sr. Vice President  
600 N. Hurstbourne Pkwy. Ste. 300  
Louisville, KY 40222

**Applicant:** Cameron General Contractors  
Paul R. Ritchie/Bob Lewis  
8040 Eiger Drive  
Lincoln, NE 68516

**Representative:** Mindel Scott & Associates  
Kathy Linares/Kent Gootee  
5151 Jefferson Blvd., Ste. 101  
Louisville, KY 40219

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 19—Julie Denton**

**Staff Case Manager: David B. Wagner, 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, David Wagner discussed the case summary, standard of review and staff analysis from the staff report. He said a Revised Detailed District Development Plan, Case No. 15DEVPLAN1042, was approved at the August 6, 2015 Planning Commission. The applicant is proposing a three-story assisted living residence with 130 dwelling units. He said he believes the applicant has removed the cupola from the design, but the variance will allow the building to be 42' in height instead of the required 35 feet. Mr. Wagner said some of his findings are not in support due to the structure being 3 stories instead of one and two that exist in the neighborhood. Chair Proffitt asked if it was approved for three stories at the Planning Commission hearing. Mr. Wagner said yes.

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

Bob Lewis.

Kent Gootee submitted an enhanced landscape plan.

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

Bob Lewis, the applicant said the core of the building is three stories and that per the building code, need three stories for the smoke evacuation system. He said they could build the wings at 35 feet, but would have to flatten the roof. Mr. Lewis said they have been working with Lake Forest Homeowners Association and have agreed to nine conditions of approval. He said they did remove the cupola at the neighbors' request.

Kent Gootee, the applicant's representative said that staff and the deliveries will enter the property on Bush Farm to respect the neighbors. Mr. Gootee submitted an enhanced landscape plan showing the types of larger caliper trees and other landscape materials. Mr. Gootee agreed to submit revised elevations that show and label the mean height for both the center and wing portions of the building.

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

James Cahoe, 800 Lake Forest Pkwy., Louisville, KY 40245.

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

James Cahoe said he is the on the Board of Directors for the Lake Forest Homeowners Association and worked with the applicant on the plan and conditions of approval which included removing the cupola.

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

Mary Dries, 15510 Champion Lakes Place, Louisville, KY 40245.

Stuart Huffman, 2403 Tradition Circle, Louisville, KY 40245.

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

Mary Dries and the opposition from Lake Forest and Legacy Patio Homes are not opposed to a retirement facility, but the height. She said it's too tall for what exists in the neighborhood, and that they should be limited to the required 35 ft. height even with the berms. She said there are also gaps in between the berms which should be filled in. She said their association would be agreeable if they duplicate the look and buffering of their subdivision.

Stuart Huffman said Legacy Subdivision said he is unsure what color palettes the applicant has chosen but would like them to match the colors of their subdivision.

**Rebuttal:**

Mr. Gootee said they had meetings with the neighbors' prior to the Planning Commission meeting. He said when the trees mature, will have a long row of Evergreens, Spruce and pine trees with various shrubs surrounding them.

Chair Proffitt asked if they could build the berm to the parkway standards. Mr. Lewis said he can't answer that because there are future sidewalk and road improvements. Chair Proffitt suggested filling in the voided space of the berms and add trees down Bush Farm Road and Old Henry Road for a visual block. Mr. Lewis agreed

**Back into public hearing:**

Mr. Huffman said drainage wasn't addressed in their rebuttal. Mr. Lewis said this was worked out at the Planning Commission meeting and that MSD has preliminarily approve their plan.

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**Deliberation:**

The Board discussed revising condition of approval #9 and adding two more.

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**Variance—To allow the building height to exceed the maximum height:**

Member Jarboe made a motion to approve the variance with conditions of approval and was seconded by Member Fishman for discussion.

**Discussion:**

Chair Proffitt asked if Member Jarboe would amend her motion after he reworted one of the conditions of approval. Member Jarboe agreed and was seconded by Member Tharp and the following resolution was adopted:

**WHEREAS**, the Board 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 including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a variance from the Land Development Code, Table 5.3.1, to allow the proposed building to exceed the maximum 35 feet to 42 feet; and

**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the building is on private property, setback from the shared property line of the single family residential by more than 80 feet at its closest point; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity because the building is set back from abutting properties to offset the additional height proposed; and because the building has varied roof heights and styles with gables and dormers; and because the roof pitch is in character with those found in the area; and because the applicant has agreed to incorporate more trees and landscaping which will further screen the proposed building from area residents; and

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**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public because the proposed increased height will not pose an nuisances or hazards; and because other buildings in the area exceed this proposed height; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the additional building height requested is less than what would be required to allow an additional level to the structure; and because Chapter 5.4.2.A.4 of the Land Development Code allows a three-story structure or taller building as long as the building is setback a minimum of 50 feet from abutting single family residential developments and in this case, is set back more than 80 feet from the single family residential; and

**WHEREAS**, the Board finds that the variance arises from special circumstances that do not generally apply to land in the general vicinity because the size and scale of this proposed building is typical for the use but unique to this location; and

**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 because the 35 foot maximum building height allowed within this zoning district suggests that a three-story structure is appropriate; and because the building will have an atrium that connects all three levels so the building will require a smoke evacuation system requiring more space;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow the proposed building to be 42 feet in height **ON CONDITION:**

**The Conditions of Approval are as follows:**

1. The building Finish Floor Elevation (FFE) of the main building will be 722.5' as depicted on the grading exhibit.
2. All trees along Arnold Palmer Boulevard golf course berm and the two residential lots abutting the applicant's east lot line shall be a minimum 2 1/2 inch caliper.



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3. The landscape plan as shown and approved as a condition of this Board shall be the same plan as approved by binding elements but includes condition of approval #10 hereunder.
4. Berm heights along Arnold Palmer Boulevard from the south R.O.W. line to the closest curb line of the building driveway will be at a maximum height achievable with slopes not to exceed 4:1 on any berm slope while still achieving proper drainage. The berm along Arnold Palmer Boulevard will run from the Lake Forest entrance sign to the main entrance but will not extend into site lines for traffic movement. The owner reserves the right not to build a berm in the location of the proposed future drive to Lot Two.
5. The owner reserves the right to build retaining walls in all areas on their property, but agrees not to build retaining walls along Arnold Palmer Boulevard, where the face of the wall faces Arnold Palmer Boulevard.
6. The owner agrees not install a cupola on the proposed building.
7. FFE of garages will be within one foot of the main building +/-.
8. The owner has the right to adjust grades and slopes as required to achieve drainage and safe slopes as determined by the owner.
9. The color of the proposed building's brick and siding will be the same palettes as Lake Forest Legacy patio homes closest to Arnold Palmer Boulevard.
10. The applicant will construct a berm along Old Henry Road to the Parkway Buffer Standards; with enhanced landscaping along Bush Farm Road to fill in the gaps. In addition, the applicant will close the gap in the berm along Arnold Palmer Boulevard.
11. The applicant will submit revised building elevations to staff that show and label the mean height for both the center and wing portions of the building

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**YES: Members Fishman, Tharp, Jarboe, Bergmann, Turner and Proffitt.**

**NO: No one.**

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

**ABSTAINING: No one.**

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**SEPTEMBER 21, 2015**

**NEW BUSINESS:**

**CASE NO. 15VARIANCE1052**

**Request:** Variance from the Land Development Code to allow a reduction in the 30% required private yard area.

**Project Name:** New Elevated Deck and Elevator

**Location:** 2138 Baringer Avenue

**Owner:** David Roth  
2138 Baringer Avenue #2  
Louisville, KY 40206

**Applicant:** Same as Owner

**Representative:** Bressoud Architecture  
Ted Bressoud  
230 South Hite Avenue  
Louisville, KY 40206

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 8—Tom Owen**

**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 the construction of a new elevated deck and three-story elevator tower at the rear of the condominium. The applicant received a Certificate of

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Appropriateness from Historic Preservation; and the requests meets the standard of review.

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

David Roth.

Bob Fincher, 2138 Baringer Avenue, Louisville, KY 40206.

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

David Roth, the owner, said he bought the 2<sup>nd</sup> and 3<sup>rd</sup> floors of this building and would like to build the elevator because his wife cannot walk. He said he hired an architect and that there will be an attractive patio between two of the buildings.

Bob Fincher said he also resides in the condominium building and is not opposed.

**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:**

Chair Proffitt said there is still a lot of yard space, so feels it is not out of character.

**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 September 21, 2015 public hearing proceedings.**

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**CASE NO. 15VARIANCE1052**

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

**WHEREAS**, the Board 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 including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a variance from Chapter 5, Section 5.4.1D.2 of the Land Development Code to allow a reduction in the required private yard area, 3,600 square feet to 2,872 square feet; or a variance of 728 square feet; and

**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the existing private yard area reduction is minimal; and because an additional 1,276 SF of yard area is available for use by the owners east of the elevated deck and elevator tower; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public because the existing private yard, west of the improvements, and additional rear yard area, east of the improvements, will be maintained; plus, the yard is enclosed by a fence; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the existing private yard area will be maintained and there is access under the elevated deck to the other rear yard area on the east side of the property; and

**WHEREAS**, the Board finds that the variance arises from special circumstances which do not generally apply to land in the general vicinity because the two smaller yard areas do contain open space which is greater than 30%; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the addition of the elevator tower is to allow access to all floors for any owners or guests who may have mobility difficulties;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow the private yard area to be 2,872 square feet.

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**YES: Members Fishman, Tharp, Jarboe, Bergmann, Turner and Proffitt.**

**NO: No one.**

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

**ABSTAINING: No one.**

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**SEPTEMBER 21, 2015**

**NEW BUSINESS:**

**CASE NO. 15VARIANCE1056**

**Request:** Variance from the Land Development Code to allow a proposed free-standing sign to exceed the maximum height.

**Project Name:** Signage

**Location:** 4405 Bardstown Road

**Owner:** Todd Grace

**Applicant:** Same as Owner

**Representative:** No one

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 2—Barbara Shanklin**  
**Staff Case Manager: Matthew Doyle, Planner II**  
**(REMOVED BY STAFF)**

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**NEW BUSINESS:**

**CASE NO. 15VARIANCE1054**

**Request:** Variance from the Land Development Code to allow a proposed residential addition to encroach into the required front yard.

**Project Name:** Residential Addition

**Location:** 553 Wainwright Avenue

**Owners:** Frank & Brenda Mosser

**Applicant:** Same as Owners

**Representative:** Taylor M. Hamilton, Atty.

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 15—Marianne Butler**

**Staff Case Manager: Matthew Doyle, Planner II  
(REMOVED BY STAFF)**



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**NEW BUSINESS:**

**CASE NO. 15VARIANCE1058**

**Request:** Variance from the Land Development Code to allow an accessory structure to encroach into the required side yards.

**Project Name:** Residence

**Location:** 1702 Fernwood Avenue

**Owner:** Sarah H. Trinkle  
1702 Fernwood Avenue  
Louisville, KY 40205

**Applicant:** Sean Trinkle  
1702 Fernwood Avenue  
Louisville, KY 40205

**Representative:** No one.

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 8—Tom Owen**

**Staff Case Manager: Steve Hendrix, Planning Supervisor**

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:**

Steve Hendrix, Planning Supervisor, discussed the case summary, standard of review and staff analysis from the staff report. He said the applicant is proposing to build a one story, 660 square foot (30' X 22') detached garage that would be accessible from the alley. He said the garage would be 1.5 feet from the north and south property lines; and meets the standard of review.

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**NEW BUSINESS:**

**CASE NO. 15VARIANCE1058**

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

No one.

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

No one.

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

No one.

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

No one.

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

No one.

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

No one.

**Deliberation:**

The Board was questioning the materials that would be use; and Chair Proffitt thought it would be block not vinyl. Member Turner said the overhang should not encroach into the neighbors' properties. The Board decided to add a condition of approval for this.

**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 September 21, 2015 public hearing proceedings.**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review, the site plan; the PowerPoint presentations; the evidence, and discussion at the public hearing that the applicant is requesting a variance from the Land Development Code to allow an accessory structure to encroach into the required north and south side yards; and

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**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare since the garage would be set back 8 feet from the alley and would maintain a 1.5' setback from each side yard; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity since the garage would maintain a setback from the side yards similar to other accessory structures in the area; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public since the garage would be setback 8 feet from the alley and would maintain a 1.5' setback from each side yard; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations since the garage would maintain a setback from the side yards similar to other accessory structures in the area; and

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow an accessory structure to be 1.5 feet from the north and south property lines **ON CONDITION** that the gutters do not encroach into the adjacent neighbors' property and the downspouts be positioned away from adjacent property owners.

**YES: Members Fishman, Tharp, Jarboe, Bergmann, Turner and Proffitt.**

**NO: No one.**

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

**ABSTAINING: No one.**

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**NEW BUSINESS:**

**CASE NO. 15CUP1027**

**Request:** Conditional Use Permit to allow outdoor alcohol sales and consumption in a C-1 zoning district.

**Project Name:** Zeggz Amazing Eggs

**Location:** 4600 Chamberlain Lane

**Owner:** Zeggz I, LLC  
Christopher Harding  
2509 Plantside Drive  
Louisville, KY 40299

**Applicant:** Same as Owner

**Attorney:** GregLaw, LLC  
Michael E. Gregory  
2509 Plantside Drive  
Louisville, KY 40299

**Representative:** Bayus Design Works  
Jennifer Nix, Sr. Project Manager  
13050 Magisterial Drive, Ste. 103  
Louisville, KY 40223

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 17—Glen Stuckel  
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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**CASE NO. 15CUP1027**

**Agency Testimony:**

Staff case manager, Jon Crumbie discussed the case summary, standard of review and staff analysis from the staff report. He said the Conditional Permit will allow the sale and consumption of alcohol beverages in an existing 3,600 SF patio that will seat 40 patrons. Chair Proffitt inquired about the landscaping. Mr. Crumbie said the landscape plan has been approved and implemented. Chair Fishman asked if they would have music and questioned the noise level. Mr. Crumbie said the applicant will need to comply with the Metro Noise Ordinance (LMCO Chapter 99).

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

Mike E. Gregory, Esq.

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

Mr. Gregory, the applicant's attorney, said the neighbors couldn't hear the music playing. Chair Proffitt asked if they might expand the audio. Mr. Gregory said no, but that they might have an acoustical guitar player at certain times. He said they are only open from 7:00 a.m. to 2:00 p.m. The dumpster is at the rear of the property.

**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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**CASE NO. 15CUP1027**

**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 September 21, 2015 public hearing proceedings.**

**Conditional Use Permit to allow outdoor alcohol sales and consumption in a C-1 zoning district:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review, the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a Conditional Use Permit to allow outdoor alcohol sales and consumption in a C-1 zoning district; and

**WHEREAS**, the Board finds that the proposal meets all applicable policies of the Comprehensive Plan; and because additional signage or lighting will not be added; and because a landscape plan for the entire development has been approved and implemented; and

**WHEREAS**, the Board finds that the proposal is compatible with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting, appearance etc. because the subject site is located in a commercial area that has a mix of business services, retail, restaurants, medical office, and is a focal point for several surrounding neighborhoods; and because all the uses in the area have similar scale, intensity, traffic, noise and lighting; and

**WHEREAS**, the Board finds that the necessary public facilities (both on and off-site), such as transportation, sanitation, water, sewer, drainage, emergency services, etc. are provided because the proposal has been reviewed by Transportation Planning and MSD and both have preliminarily approved the plan; and

**WHEREAS**, the Board finds that the proposal complies with the applicable specific standards required to obtain the conditional use permit; there are 8

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**CASE NO. 15CUP1027**

requirements items, A., C., E., F., and G. will be met and Items B., and D., do not apply (see pages 2 and 3 in staff report);

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow outdoor alcohol sales and consumption in a C-1 zoning district on the site **SUBJECT** to the following 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.

**YES: Members Fishman, Tharp, Jarboe, Turner and Proffitt.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Allendorf and Bergmann.**

**ABSTAINING: No one.**

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

**SEPTEMBER 21, 2015**

**NEW BUSINESS:**

**CASE NO. 15CUP1028**

**Request:** Conditional Use Permit to allow a rehabilitation home in a UN Zoning District.

**Project Name:** Recovery on Clay

**Location:** 953 South Clay Street

**Owner:** South Clay Properties, LLC  
2708 Frankfort Avenue  
Louisville, KY 40206

**Applicant:** The Healing Place  
Maria Highbaugh  
1020 W. Market Street  
Louisville, KY 40202

**Representative:** Land Design & Development  
Kevin Young  
503 Washburn Avenue  
Louisville, KY 40222

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 4—David Tandy**

**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).



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

**SEPTEMBER 21, 2015**

**NEW BUSINESS:**

**CASE NO. 15CUP1028**

**Agency Testimony:**

Staff case manager, Jon Crumbie discussed the case summary, standard of review and staff analysis from the staff report. The program will be for 62 men recovering from alcohol and drug addiction, with two men in each room. He said parking will be provided for employees and visitors; and there will be 3 people on site monitoring the residents 24 hours a day. He said the applicant would like to modify Item C of the requirements because the residents will not be driving.

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

Kevin Young.

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

Kevin Young, the applicant's representative, said the building is in disrepair and will look nice once completed. Mr. Young explained the details of the program, parking, signage which will be minimal and landscaping.

Don Blackburn, the owner, said he has been helping people with drug and alcohol dependency for over 20 years; and that this is a privately funded program. He said the residents will be monitored 24 hours a day, even if they go outside. He said he wants to paint the outside and possibly add some metal.

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

No one.

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

No one.

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

No one.

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

No one.

**Deliberation:**

The Board discussed adding conditions of approval for the parking.

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

**SEPTEMBER 21, 2015**

**NEW BUSINESS:**

**CASE NO. 15CUP1028**

**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 September 21, 2015 public hearing proceedings.**

**Conditional Use Permit to allow a rehabilitation home in a UN Zoning District:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review, the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a Conditional Use Permit to allow a rehabilitation home in a UN Zoning District; and

**WHEREAS**, the Board finds that the proposal is consistent with the applicable policies of the Comprehensive Plan because it will preserve and renovate an existing structure that is in disrepair and vacant and will incorporate a building design that is consistent with the predominate neighborhood; and because all lighting and signage will be code compliant; and because the off-street parking and landscaping will be code compliant; and

**WHEREAS**, the Board finds that the proposal is compatible with surrounding land uses and the general character of the area in terms of height, scale, intensity, lighting and appearance; and

**WHEREAS**, the Board finds that the proposal has the necessary facilities (both on and off-site) such as transportation, sanitation, water, sewer, drainage, emergency services etc. because the proposal has been review and preliminarily approved by Public Works and MSD; and

**WHEREAS**, the Board finds that the proposal complies with the applicable listed requirements where the Board will modify Item C. because the residents of the facility will not be allowed to have automobiles;

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

**SEPTEMBER 21, 2015**

**NEW BUSINESS:**

**CASE NO. 15CUP1028**

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow a rehabilitation home in a UN Zoning District on the site **SUBJECT** to the following 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 CUP is not so exercised, the site shall not be used for a rehabilitation home.
3. The applicant will provide one parking space on site for each employee.
4. Residents of the facility will not be allowed to have automobiles.

**YES: Members Fishman, Tharp, Jarboe, Turner and Proffitt.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Allendorf and Bergmann.**

**ABSTAINING: No one.**

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

**SEPTEMBER 21, 2015**

**NEW BUSINESS:**

**CASE NO. 15CUP1032**

**Request:** Conditional Use Permit to allow off-street parking in a UN Zoning District.

**Project Name:** Recovery on Clay

**Location:** 952, 954 & 956 South Clay Street

**Owner:** South Clay Properties, LLC  
2708 Frankfort Avenue  
Louisville, KY 40206

**Applicant:** The Healing Place  
Maria Highbaugh  
1020 W. Market Street  
Louisville, KY 40202

**Representative:** Land Design & Development  
Kevin Young  
503 Washburn Avenue  
Louisville, KY 40222

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 4—David Tandy**

**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).

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

**SEPTEMBER 21, 2015**

**NEW BUSINESS:**

**CASE NO. 15CUP1032**

**Agency Testimony:**

Staff case manager, Jon Crumbie discussed the case summary, standard of review and staff analysis from the staff report. The program will be for 62 men recovering from alcohol and drug addiction, with two men in each room. He said parking will be provided for employees and visitors; and there will be 3 people on site monitoring the residents 24 hours a day. He said the applicant would like to modify Item C of the requirements because the residents will not be driving.

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

Kevin Young.

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

Kevin Young, the applicant's representative, said the building is in disrepair and will look nice once completed. Mr. Young explained the details of the program, parking, signage which will be minimal and landscaping.

Don Blackburn, the owner, said he has been helping people with drug and alcohol dependency for over 20 years; and that this is a privately funded program. He said the residents will be monitored 24 hours a day, even if they go outside. He said he wants to paint the outside and possibly add some metal.

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

No one.

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

No one.

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

No one.

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

No one.

**Deliberation:**

The Board discussed adding conditions of approval for the parking.

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

**SEPTEMBER 21, 2015**

**NEW BUSINESS:**

**CASE NO. 15CUP1032**

**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 September 21, 2015 public hearing proceedings.**

**Conditional Use Permit to allow off-street parking in a UN Zoning District:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review, the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a Conditional Use Permit to allow off-street parking in a UN Zoning District; and

**WHEREAS**, the Board finds that the proposal is consistent with the applicable policies of the Comprehensive Plan because it will preserve and renovate an existing structure that is in disrepair and vacant and will incorporate a building design that is consistent with the predominate neighborhood; and because all lighting and signage will be code compliant; and because the off-street parking and landscaping will be code compliant; and

**WHEREAS**, the Board finds that the proposal is compatible with surrounding land uses and the general character of the area in terms of height, scale, intensity, lighting and appearance; and

**WHEREAS**, the Board finds that the proposal has the necessary facilities (both on and off-site) such as transportation, sanitation, water, sewer, drainage, emergency services etc. because the proposal has been review and preliminarily approved by Public Works and MSD; and

**WHEREAS**, the Board finds that the proposal complies with the applicable listed requirements where the Board will modify Item C. because the residents of the facility will not be allowed to have automobiles;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow a rehabilitation home in a UN Zoning District on the site **SUBJECT** to the following Conditions of Approval:

**MINUTES OF THE MEETING  
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**SEPTEMBER 21, 2015**

**NEW BUSINESS:**

**CASE NO. 15CUP1032**

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 CUP is not so exercised, the site shall not be used for a rehabilitation home.
3. The applicant will provide one parking space on site for each employee.
4. Residents of the facility will not be allowed to have automobiles.

**YES: Members Fishman, Tharp, Jarboe, Turner and Proffitt.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Allendorf  
and Bergmann.**

**ABSTAINING: No one.**

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

**SEPTEMBER 21, 2015**

**NEW BUSINESS:**

**CASE NO. 14DEVPLAN1142**

**Request:** Category 3 Review; a variance from the Land Development Code to allow the proposed building not to be built at the zero foot setback along Dixie Highway; and a waiver to not provide the 3 ft. tall masonry wall along the perimeter of the parking area.

**Project Name:** West Louisville YMCA

**Location:** 1700 West Broadway

**Owner:** YMCA  
Steve Tarver  
545 South Second Street  
Louisville, KY 40202

**Applicant:** Same as Owner

**Representative:** Lockett & Farley  
Phil Gambrell  
737 South Third Street  
Louisville, KY 40202

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 4—David Tandy**

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

**Chair Proffitt recused himself from this case due to a conflict of interest.**

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).



**MINUTES OF THE MEETING  
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**SEPTEMBER 21, 2015**

**NEW BUSINESS:**

**CASE NO. 14DEVPLAN1142**

**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 the construction of a 2-story, 54,650SF health and fitness center at the corner of Broadway and newly aligned Dixie Highway. Ms. Long discussed the addition of a new TARC bus shelter, the addition of a rain garden for drainage, landscaping and tree requirements that will be met. She said the variance description in her staff report was incorrect and said it will allow the building to not be built to the right-of-way line on Dixie Highway.

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

Phil Gambrell.

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

Phil Gambrell, the applicant's representative, said they've been working with Public Works for 3 years due to the realignments of Dixie Highway and 18<sup>th</sup> Street. He said they received grants to remove hazardous material that was under the warehouse. He said the rain garden and addition of grass will drastically reduce the water runoff. He said they are working with TARC to enhance the bus stops.

**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:**

Chair Jarboe said it will be nice to see this piece of land come back to life.

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

**SEPTEMBER 21, 2015**

**NEW BUSINESS:**

**CASE NO. 14DEVPLAN1142**

**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 September 21, 2015 public hearing proceedings.**

**Variance—To allow the building to not be built to the right-of-way line on Dixie Highway:**

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

**WHEREAS**, the Board 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 from Section 5.5.1.A.2 of the Land Development Code to allow the building to not be built to the right-of-way line along Dixie Highway (requirement is 0 feet; request is 14 feet; or a variance of 14 feet); and

**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare since the building is being built to the right-of-way line along Broadway; and because a transit facility for TARC is proposed for the area between the building and the newly aligned Dixie Highway; also, because not building to the corner will allow for the continuation of the street trees from the south; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity since the location of the proposed building is at the right-of-way line along Broadway; also because the addition of the transit facilities will enhance the Dixie Highway corner; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public since the building will be built to the Broadway right-of-way; and because access is provided from all street frontages; and because street trees will be provided along Broadway street frontage and additional street trees will be added along Dixie Highway to enhance the view and reduce heat along both corridors; and

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**SEPTEMBER 21, 2015**

**NEW BUSINESS:**

**CASE NO. 14DEVPLAN1142**

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations since the building is being built to the right-of-way line of Broadway and the area between the Dixie Highway right-of-way and the new building will be used for a transit facility and improved TARC stop; and because the addition to the street tree plantings which will enhance the area and improve the heat effects; and

**WHEREAS**, the Board finds that the variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because of the realignment of Dixie Highway, the location of the building off the corner creates the ideal area for an improved transit stop at the corner; and

**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 and create an unnecessary hardship on the applicant since an improved transit facility would not be possible at this location which is one of the busiest transit areas in the city; 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 realignment of Dixie Highway and 18<sup>th</sup> Street has created a corner lot;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow the building to be 14 feet from Dixie Highway.

**YES: Members Fishman, Tharp, Jarboe and Turner.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING:           Member Allendorf  
and Bergmann.**

**ABSTAINING:           Member Proffitt.**

**MINUTES OF THE MEETING  
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**SEPTEMBER 21, 2015**

**NEW BUSINESS:**

**CASE NO. 14DEVPLAN1142**

**Waiver—To not provide the required 3 ft. tall masonry wall along the perimeter of the parking area:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a waiver from Section 5.5.1.A.3 of the Land Development Code to not provide the 3 ft. tall masonry wall along the perimeter of the parking area; and

**WHEREAS**, the Board finds that the requested waiver will not adversely affect adjacent property owners since buffer plantings will be provided along the perimeter of the parking lot to compensate for not providing the wall; and

**WHEREAS**, the Board finds that the waiver will not violate specific guidelines of Cornerstone 2020 because buffer plantings of trees and shrubs will be provided along the perimeter of the parking lot to screen views of the parking areas from Dixie Highway, Maple Street and 17<sup>th</sup> Street; and

**WHEREAS**, the Board finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since a hedge and tree plantings are being used to screen the parking area from the street view; and

**WHEREAS**, the Board finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); and because the proposal provides a 10' VUA/LBA around the entire perimeter of the proposed parking area which will screen the view of the parking from all three streets; and because the applicant is also providing interior islands and tree plantings to enhance the parking lot and distribute tree canopy throughout the paved area; and because the proposal also provides large green spaces between the parking lot and the streets; also because a rain garden is proposed in the green space along Dixie Highway which will also add additional screening of the parking from the street view;

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LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

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**NEW BUSINESS:**

**CASE NO. 14DEVPLAN1142**

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waiver to not provide the 3 foot tall masonry wall along the perimeter of the parking area.

**YES: Members Fishman, Tharp, Jarboe and Turner.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Allendorf and Bergmann.**

**ABSTAINING: Member Proffitt.**

**Category 3 Plan:**

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

**WHEREAS**, the Board finds, from the file of this case, the staff report, the site plan, the PowerPoint presentation(s) and the evidence and testimony submitted at the public hearing that the applicant is requesting approval of a Category 3 Plan for the construction of a 54,650 SF, two-story health and fitness center at the corner of Broadway and the newly realigned Dixie Highway; and

**WHEREAS**, the Board finds that there doesn't appear to be any environmental constraints or historic resources on the subject site; and because tree canopy requirements of the Land Development Code will be provided on the subject site; and

**WHEREAS**, the Board finds that the provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided; and because Metro Public Works and the Kentucky Transportation Cabinet have preliminarily approved the development plan; and

**WHEREAS**, the Board finds that the proposal provides outdoor recreational facilities and open space to be developed in the future; and

**WHEREAS**, the Board finds that MSD has preliminarily approved the development plan and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

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**NEW BUSINESS:**

**CASE NO. 14DEVPLAN1142**

**WHEREAS**, the Board finds that the overall site design and land uses are compatible with the existing future development of the area; and because appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways; and because buildings and parking lots will meet all required setbacks except for the approved variance associated with this request; and

**WHEREAS**, the Board finds the proposal to be in conformance with the Comprehensive Plan and the Land Development Code because it complies with all applicable guidelines, principles and objectives and received preliminary approval from Transportation Review and Louisville and Jefferson County Metropolitan Sewer District;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Category 3 plan for Case No. 14DEVPLAN1142.

**YES: Members Fishman, Tharp, Jarboe and Turner.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members  
Allendorf and Bergmann.**

**ABSTAINING: Member Proffitt.**

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

**SEPTEMBER 21, 2015**

**NEW BUSINESS:**

**CASE NO. 15DEVPLAN1125**

**Request:** Category 3 Review; a variance from the Land Development Code to allow a proposed building to exceed the maximum setback along Ray Avenue; and Land Development Code waivers.

**Project Name:** Louisville Collegiate School

**Location:** 2367, 2423, 2427, 2453, 2461, 2465 Glenmary Avenue & 1108, 1110 Ray Avenue

**Owner:** Louisville Collegiate School

**Applicant:** Louisville Collegiate School  
2427 Glenmary Avenue  
Louisville, KY 40204

**Attorney:** Bardenwerper Talbott & Roberts, PLLC  
Bill Bardenwerper, Esq.  
1000 N. Hurstbourne Parkway, 2<sup>nd</sup> floor  
Louisville, KY 40223

**Representative:** Civil Design, Inc.  
Alex Doneberg  
3404 Stony Spring Circle  
Louisville, KY 40220

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 8—Tom Owen**

**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

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

**SEPTEMBER 21, 2015**

**NEW BUSINESS:**

**CASE NO. 15DEVPLAN1125**

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 requests are for the demolition of the existing kitchen, dining annex and library to construct a new kitchen, dining area and library facilities for the school. They are adding more parking and will create better vehicular and pedestrian access. The applicant received a Certificate of Occupancy from the Cherokee Triangle Architectural Review Committee; will plant additional hardwood trees where they can; include a gate; and have moved the underground detention to another area. Ms. Long said the requests meet the standard of review.

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

Bill Bardenwerper, Attorney.

Dr. James Wright, 2622 Phoenix Hill Drive, Louisville, Kentucky 40207.

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

Bill Bardenwerper, the applicant's attorney, said they received the Certificate of Occupancy; and introduced Dr. James Wright to the Board.

Chair Proffitt asked Mr. Wright what materials would be used to surround the dumpster. Mr. Wright said brick or block like the existing buildings. Chair Proffitt suggested a closure over the dumpsters and include some landscaping around the dumpster area. Mr. Wright thought this was a good idea.

**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.



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LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**SEPTEMBER 21, 2015**

**NEW BUSINESS:**

**CASE NO. 15DEVPLAN1125**

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

No one.

**Deliberation:**

Chair Proffitt said the architecture is nice looking.

**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 September 21, 2015 public hearing proceedings.**

**Variance—To allow the building setback to exceed the infill front setback/build-to line:**

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

**WHEREAS**, the Board 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 including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a variance from Section 5.2.2.C.1.a. of the Land Development Code to allow the building setback to exceed the infill front setback/build-to line; and

**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare since the construction of the 3-story addition will be in alignment with the existing building; and because the building addition is being proposed to improve the facilities of the school; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity since the location of the proposed building addition will not extend beyond the existing building setback; and because the proposed building materials will be compatible to the existing building materials; and because the Cherokee Triangle Architectural Review Committee has approved the proposed exterior façade improvements; and

**MINUTES OF THE MEETING  
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**SEPTEMBER 21, 2015**

**NEW BUSINESS:**

**CASE NO. 15DEVPLAN1125**

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public since the proposed addition will be constructed with materials which are similar to the existing buildings; also because adequate access is being provided to the building; and because the addition of trees and shrubs will enhance the development; and the location of the proposed building will not cause a hazard or nuisance to anyone; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulation since the building addition is being built at the same setback as the existing building; and

**WHEREAS**, the Board finds that the variance arises from special circumstances that do not generally apply to land in the general vicinity or the same zone because the existing location of the building is beyond the allowable setback with the parking located between the building and the street; and because the proposed location of the new addition is following the alignment and setback of the existing building in order to preserve the existing parking spaces which are needed for this urban site; and

**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 and create an unnecessary hardship on the applicant since the required location of the building would cause the elimination of much needed parking; 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; and because the subject site has been used and operated as a school prior to the regulations being adopted; and because the locations of the existing buildings limit opportunity for expansion;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow the building to be 129.5 feet from Ray Avenue to the east.

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**SEPTEMBER 21, 2015**

**NEW BUSINESS:**

**CASE NO. 15DEVPLAN1125**

**YES: Members Fishman, Tharp, Jarboe, Turner and Proffitt.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members  
Allendorf and Bergmann.**

**ABSTAINING: No one.**

**Waiver #1—To allow the parking to be located in front of the building  
adjacent to Ray Avenue and Glenmary Avenue:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review; the site plan; the PowerPoint presentations; the evidence including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a waiver from Section 5.5.1.A.3 of the Land Development Code to allow the parking to be located in front of the building adjacent to Ray Avenue and Glenmary Avenue; and

**WHEREAS**, the Board finds that the requested waiver will not adversely affect adjacent property owners since the proposal will be adding a screen wall in front of the proposed spaces to reduce their impact; and because additional trees are being provided between the building and the street to also reduce the impact; and

**WHEREAS**, the Board finds that the waiver will not violate specific guidelines of Cornerstone 2020 because the location of the parking is an existing condition; and because the existing pergola, brick columns and fencing along with the additional proposed brick screen wall mitigate the impact of the additional parking; and

**WHEREAS**, the Board finds that the extent of the waiver is the minimum necessary to afford relief to the applicant since a brick screen wall and additional tree plantings are to be provided between the building and the street to lessen the impact of the parking in front of the building; and

**WHEREAS**, the Board finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) because

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the proposal provides an existing pergola, brick columns and fencing along with an additional screen wall to screen the parking and reduce the impact; and because additional trees are to be planted along the street and adjacent to the building to also reduce the impact of the parking in front of the building;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waiver to allow the parking to be located in front of the building adjacent to Ray Avenue and Glenmary Avenue.

**YES: Members Fishman, Tharp, Jarboe, Turner and Proffitt.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Allendorf and Bergmann.**

**ABSTAINING: No one.**

**Waiver #2—To allow the dumpster enclosure to not be gated and to allow the gate on the service driveway to screen the dumpster and the loading and refuge collection areas:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review; the site plan; the PowerPoint presentations; the evidence including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a waiver from Section 5.5.1.A.4 and 10.4.6 of the Land Development Code to allow the dumpster enclosure to not be gated and to allow the gate on the service driveway to screen the dumpster and the loading and refuge collection areas; and

**WHEREAS**, the Board finds that the requested waiver will not adversely affect adjacent property owners since a decorative fence and brick columns will be provided between the buildings at the edge of the service area to screen the refuge area from view of the street and residential property; and because the dumpsters will be enclosed on three sides with block walls or solid wood fencing; and

**WHEREAS**, the Board finds that the waiver will not violate Guideline 3 (Compatibility) of Cornerstone 2020 which states that parking, loading and

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delivery areas located adjacent to residential areas are designed to minimize adverse impacts of lighting, noise and other potential impacts, and that these areas are located to avoid negatively impacting motorists, residents and pedestrians; and because the area will be screened by the gate at the entrance to the service area; and because additional tree plantings are being proposed between the service and the residential property across Glenmary Avenue; and

**WHEREAS**, the Board finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since a gate and the proposed tree plantings are being used to screen the service area from the street view; and

**WHEREAS**, the Board finds that the applicant has incorporated other design measures that exceed the minimum of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) because the proposal provides a decorative gate at the service entrance and additional trees are being planted to screen the view of the area from the residential homes across Glenmary Avenue;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the waiver to allow the dumpster enclosure to not be gated and to allow the gate on the service driveway to screen the dumpster and the loading and refuse collection areas.

**YES: Members Fishman, Tharp, Jarboe, Turner and Proffitt.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members  
Allendorf and Bergmann.**

**ABSTAINING: No one.**

**Category 3 Plan:**

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

**WHEREAS**, the Board finds, from the file of this case, the staff report, the site plan, the PowerPoint presentation(s) and the evidence and testimony submitted at the public hearing that the applicant is requesting approval of a Category 3

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Plan to construct a new kitchen, dining area and library facilities for Louisville Collegiate School; and

**WHEREAS**, the Board finds that the proposal conserves the existing historic building and resources on the subject site; and because the existing tree canopy, with the exception of the trees required to be removed to allow the new construction, are being preserved and protected; and because additional trees are to be planted to compensate for the tree canopy lost to construction; and

**WHEREAS**, the Board finds that the provision for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided; and because Metro Public Works has preliminarily approved the development plan; and

**WHEREAS**, the Board finds that the proposal does provide outdoor recreational facilities and open space within the development; and

**WHEREAS**, the Board finds that MSD has preliminarily approved the development plan and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

**WHEREAS**, the Board finds that the overall site design and land uses are compatible with the existing and future development of the area; and because appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways; and because buildings and parking lots will meet all required setbacks except for the approved associated variance; and

**WHEREAS**, the Board finds the proposal to be in conformance with the Comprehensive Plan and the Land Development Code because it complies with all applicable guidelines, principles and objectives of the Comprehensive Plan, as it has received preliminary approval from Transportation Review and Louisville and Jefferson County Metropolitan Sewer District;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Category 3 plan for Case No. 15DEVPLAN1125.

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**YES: Members Fishman, Tharp, Jarboe and Turner.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members  
Allendorf and Bergmann.**

**ABSTAINING: Member Proffitt.**

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**The meeting adjourned at 4:53 p.m.**

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**CHAIRPERSON**

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**SECRETARY**