

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

August 29, 2016

A meeting of the Louisville Metro Board of Zoning Adjustment was held on August 29, 2016 at 8:30 a.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Betty Jarboe, Vice Chair
Rosalind Fishman, Secretary
Lester Turner
Paul Bergmann
Lula Howard
Dean Tharp

Members Absent:

Mike Allendorf, Chair

Staff Members Present:

Brian Davis, Planning & Design Manager
Steve Hendrix, Planning & Design Supervisor
Brian Mabry, Planning & Design Supervisor
Joel Dock, Planner I
Jon Crumbie, Planning & Design Coordinator
Ross Allen, Planner I
Laura Mattingly, Planner I
John Carroll, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

August 15, 2016 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:03:20 On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on August 15, 2016.

The vote was as follows:

Yes: Members Fishman, Turner, Howard, Bergmann, and Vice Chair Jarboe

Abstain: Member Tharp

Absent: Chair Allendorf

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BUSINESS SESSION

CASE NUMBER 16VARIANCE1061

Request: Variance from the Land Development Code section 5.2.2, table 5.2.2 to allow a proposed attached rear screened porch to encroach into the minimum side yard setback.

Project Name: 186 North Bellaire Ave. Variance

Location: 186 North Bellaire Avenue

Owner: James Bruggers

Applicant: Kathy Matheny – Cardinal Planning and Design Inc.

Representative: Kathy Matheny – Cardinal Planning and Design Inc.

Jurisdiction: Louisville Metro

Council District: 9 – Bill Hollander

Case Manager: Ross Allen, Planner I

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

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

Agency Testimony:

00:04:11 Steve Hendrix stated all the neighbors have signed and there are no objections to the proposal (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition to the request:

No one spoke.

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CASE NUMBER 16VARIANCE1061

00:04:46 On a motion by Member Fishman, seconded by Member Bergmann, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the property has been at a setback of approximately 1.49 feet – 1.29 feet since the original date of construction, 1900, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since many of the homes in the area sit if not on the property lines are within a 3 foot distance as required by LDC. The age of the housing predates zoning regulations, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the rear addition is an extension of the existing principal structure and is not accessible by the public. The addition as assessed from the northern side property line would still have an approximate distance of 8 feet from the next closest structure, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the residence predates the use of zoning regulations for Louisville Metro, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the existing setbacks as found on the subject site are less than required by LDC, 3 feet, and have been since 1900, predating the zoning regulations and form district setback requirements, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land which would require the rear addition to be recessed inward from the side property line by approximately 1.8 feet more than the current variance request. As a result, the addition would not be flush with the existing principal, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the applicant is requesting the variance prior to construction of the proposed rear porch, an enclosed (screened), of the residence; now, therefore be it

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BUSINESS SESSION

CASE NUMBER 16VARIANCE1061

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1061, does hereby **APPROVE** Variance from the Land Development Code Section 5.2.2, table 5.2.2 to allow the existing principal structure and new rear screened porch addition to encroach into the minimum side yard setback (**Requirement 3', Request 1.21', Variance 1.79'**), based on the Staff Report Pages 2 and 3 Standard of Review and Additional Considerations.

The vote was as follows:

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

Absent: Chair Allendorf

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BUSINESS SESSION

CASE NUMBER 16VARIANCE1059

Request: Variance from the Land Development Code sections 5.1.7.D to allow a proposed garage and attached patio to encroach into the minimum front yard setback on a double frontage lot

Project Name: McCreedy Variance

Location: 302 McCreedy Avenue

Owner: Marie White

Applicant: Joe Willis – Louisville Room Addition

Representative: Joe Willis – Louisville Room Addition.

Jurisdiction: Louisville Metro

Council District: 9 – Bill Hollander

Case Manager: Ross Allen, Planner I

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

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

Agency Testimony:

00:06:17 Steve Hendrix stated the adjacent property owners have signed off (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition to the request:

No one spoke.

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BUSINESS SESSION

CASE NUMBER 16VARIANCE1059

00:06:46 On a motion by Member Fishman, seconded by Member Bergmann, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the proposed garage is one foot off the property line in the rear with an approximate 6 foot verge of concrete off of Crabbs Lane. The variance will allow for the private yard area to remain behind the existing fence and allow access from Crabbs Lane, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since seven other garages have access from Crabbs lane along the same block, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the proposed partially existing garage is located approximately 14 feet from the edge of pavement from Crabbs Lane, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the required setback of 15 feet is a result of double frontage on Crabbs and McCready Ave. Crabbs Lane is classified as a local road even though it abuts the rear of properties along McCready Ave. Several other homes in the same block have garages that front Crabbs Lane allowing for rear access, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since a large public easement was deeded to each of the property owners on August 14, 2009, this specific address was allowed an additional 16.8 feet per the Commissioner's Deed, allowing for more space at the rear where the garage is partially constructed, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land, resulting in a reduction in the private yard area and further distance from a rear access along Crabbs Lane, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the applicant had obtained a permit (#BL987683) issued on 06/07/2016 to construct the garage; now, therefore be it

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CASE NUMBER 16VARIANCE1059

RESOLVED, that the Louisville Metro Board of Zoning Adjustment in Case Number 16VARIANCE1059 does hereby **APPROVE** Variance from the Land Development Code Section 5.1.7.D to allow an existing garage and unenclosed concrete patio to encroach into the front yard setback on a double frontage lot (**Requirement 15', Request 1', Variance 14'**), based on the Staff Report Pages 2 and 5 including the Standard of Review and also Additional Considerations.

The vote was as follows:

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

Absent: Chair Allendorf

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CASE NUMBER 16VARIANCE1064

Request: Variance from the Land Development Code section 5.2.2, table 5.2.2 to allow a proposed enclosed attached rear addition to encroach into the minimum side yard setback.

Project Name: 1924 Harvard Drive
Location: 1924 Harvard Drive
Owner: Richard L. Morris – RLM Properties Inc.
Applicant: Richard L. Morris – RLM Properties Inc.
Representative: Richard L. Morris – RLM Properties Inc.
Jurisdiction: Louisville Metro
Council District: 8 – Tom Owen
Case Manager: Ross Allen, Planner I

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

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

Agency Testimony:

00:08:22 Steve Hendrix stated the adjacent property owners have signed off with no objections (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition to the request:

No one spoke.

00:08:57 On a motion by Member Fishman, seconded by Member Bergmann, the following resolution was adopted:

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CASE NUMBER 16VARIANCE1064

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the setback will be a continuance of the existing setback established when the original residence was constructed in 1922, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the setback on the existing principal structure is less than what is currently required by LDC and other homes in the vicinity have similar setbacks, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the setbacks would have been present since the construction of the in 1922. The side yard setbacks are very narrow for all residences in the area for the existing structures, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since many homes in the general vicinity have similar setbacks, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the home was constructed in 1922 which predate current LDC Traditional Neighborhood Form District setbacks, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since the applicant is building an addition that is a continuance of the existing principal structure. Alteration of the proposed addition to meet the side yard setback of 3 feet would result in the addition being elongated and decreasing the private yard area, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the home was constructed in 1922 and the setbacks required by LDC would not allow the rear addition, if flush with the principal structure; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1064, does hereby **APPROVE** Variances from the Land Development Code Section 5.2.2, table 5.2.2 to allow the rear attached and enclosed addition to the principal structure to encroach into the minimum side

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CASE NUMBER 16VARIANCE1064

yard setbacks (**Side Yard Setback/Eastern – Requirement 3’, Request 1.21’, Variance 1.79’; Side Yard Setback/Western – Requirement 3’, Request 2’, Variance 1’**), based on the Standard of Review and Staff Analysis for Variances and Additional Considerations on Pages 2 and 3 of the Staff Report.

The vote was as follows:

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

Absent: Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 16VARIANCE1051

Request: Variance for side yard setbacks
Project Name: 1327 & 1325 Christy Ave
Location: 1327 & 1325 Christy Ave
Owner: Scott McEwen, JamCor Investments, Inc
Applicant: Gerald A Stafford
Representative: Kathryn Matheny, Cardinal Surveying
Jurisdiction: Louisville Metro
Council District: 4 – David Tandy
Case Manager: Laura Mattingly, Planner I

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

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

Agency Testimony:

00:10:32 Laura Mattingly presented the case and showed a Powerpoint presentation. Ms. Mattingly responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Kathy Matheny, Cardinal Surveying, 9009 Preston Hwy., Louisville, KY 40219

Summary of testimony of those in favor:

00:15:25 Kathy Matheny spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

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00:17:51 Board Members' deliberation

00:18:20 On a motion by Member Bergmann, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect public health, safety or welfare as both homes are existing and no changes are proposed in association with the variances, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as there are no proposed changes to the homes that would alter their existing character, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as there are no proposed changes to the footprints or total building area of the homes, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the non-conforming conditions have been in place for a number of years. The purpose of the minor plat is to bring 1327 Christy Avenue more into compliance by correcting the property line, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances as the sites were developed before the current regulations and are too narrow to allow the required setback, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the renovations to the home would not be able to take place, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant take subsequent to the adoption of the zoning regulation for which relief is sought because the addition that encroaches over the property line was built by a previous owner at an unknown time; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment in Case Number 16VARIANCE1051 does hereby **APPROVE** Variance requests from the Land Development Code Section 5.2.2, table 5.2.2 to allow two existing homes to be less than 3 feet from the side property line in association with a minor

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CASE NUMBER 16VARIANCE1051

subdivision plat to shift the side property line (**Side Yard/1325 Christy Ave – Requirement 3', Request 1.81', Variance 1.19'**; **Side Yard/1327 Christy Ave – Requirement 3', Request .38', Variance 2.62'**), based on the Staff Report, the presentations at the hearing, the presentations by the applicant and there are no objections to this request.

The vote was as follows:

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

Absent: Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 16VARIANCE1060

Request: Variance from the Land Development Code sections 5.1.12.a for the proposed residence to be at a greater (65 foot) front yard setback.
Project Name: 12506 Lilly Lane Variance
Location: 12506 Lilly Lane
Owner: Vanessa J. Lasobek
Applicant: Richeal Thronson-Mabis – Clayton Homes
Representative: Richeal Thronson-Mabis – Clayton Homes.
Jurisdiction: Louisville Metro
Council District: 19 – Julie Denton
Case Manager: Ross Allen, Planner I

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

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

Agency Testimony:

00:20:35 Ross Allen presented the case and showed a Powerpoint presentation. Mr. Allen responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Vanessa Lasobek, 100 Danielle Drive, Fairmont, WV
Lynna Marshall, 12508 Lilly Lane, Louisville, KY

Summary of testimony of those in favor:

00:29:31 Vanessa Lasobek spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 16VARIANCE1060

00:35:47 Ross Allen responded to questions from the Board Members (see recording for detailed presentation).

00:37:52 Lynna Marshall spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

00:39:01 Ross Allen responded to questions from the Board Members (see recording for detailed presentation).

00:40:27 Board Members' deliberation

00:46:18 On a motion by Member Fishman, seconded by Member Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the property sets approximately 65 foot from the eastern property line, 130 foot from the western rear property line and 47 feet from the western property line. Only the northwestern and northeastern adjacent properties have a principal structure with the northwestern principal structure being the closest in proximity, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since parcels in the vicinity have varying sizes and are irregularly shaped. The subject parcel is a pentagonal shape (having five sides) and the proposed residence is situated at or near the center of the parcel, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the proposed residence is situated within the confines of the 1.147 acre lot and poses no issue to the public based on distances/proximity to property lines nor existing residential structures, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the intent of LDC

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CASE NUMBER 16VARIANCE1060

section 5.1.12.a is to provide uniformity and given the pentagonal shape of the parcel the applicant has situated the home facing Lilly Lane while providing distance to other structures, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the pentagonal shape of the parcel requires the home to face Lilly Lane and all setbacks would be determined by LDC Table 5.3.1, requiring minimum rear and side yard setbacks of 25 feet, and 5 feet respectively, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since the pentagonal shape of the lot and the applicant would be required to move the proposed residence closer to Lilly Lane by approximately 30 feet resulting in a small front yard area with a disproportionately large rear yard, and

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

RESOLVED, that the Louisville Metro Board of Zoning Adjustment in Case Number 16VARIANCE1060 does hereby **APPROVE** Variance from the Land Development Code Section 5.1.12.a to allow the front yard setback to be greater than the range of the front yard setbacks of the two nearest lots containing principal structures within the same block face (**Front Yard Setback Requirement 30-35', Request 65', Variance 30'**), based on the Standard of Review and Staff Analysis for Variances on Page 2 and the Additional Considerations on Pages 2 and 3, the presentation, the site plan and the testimony heard today.

The vote was as follows:

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

Absent: Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 16VARIANCE1056

Request: Variances for front, side, street side, and rear yard setback for proposed single-family dwellings and accessory use areas
Project Name: Schnitzelburg Container Homes
Location: 1337 S. Shelby St, 1333 S. Shelby St, & 800 Ash St
Owner: RDKJ Properties, LLC
Applicant: STC Consolidated – James Matthews
Representative: STC Management – Chris Sternberg
Jurisdiction: Louisville Metro
Council District: 10 – Pat Mulvihill
Case Manager: Joel Dock, Planner I

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

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

Agency Testimony:

00:49:11 Joel Dock presented the case and showed a Powerpoint presentation. Mr. Dock responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223
James Matthews, 923 E. Court Ave., Jeffersonville, IN

Summary of testimony of those in favor:

00:59:00 Nick Pregliasco spoke in favor of the request (see recording for detailed presentation).

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CASE NUMBER 16VARIANCE1056

00:59:51 James Matthews spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:03:32 Nick Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

01:05:51 James Matthews responded to questions from the Board Members (see recording for detailed presentation).

01:11:14 Nick Pregliasco spoke in regard to the placement of the structures (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

01:12:12 Board Members' deliberation

01:14:23 On a motion by Member Howard, seconded by Member Bergmann, the following resolution was adopted:

VARIANCE from the Land Development Code Section 5.2.2 to allow principal structures to encroach into the minimum front yard setback on 1337 & 1333 S. Shelby Street:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety, or welfare as the proposed dwellings are for single-family use and do not encroach into public rights-of-way or restrict pedestrian and vehicular movement or visibility, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the site is located at the periphery of a residential neighborhood and is surrounded by a mixture of commercial and industrial facilities of varying architectural styles. Locating these structures closer to the S. Shelby Street right-of-way enhances the street wall and brings the structures closer to the established front setback of residences and businesses along S. Shelby Street to the North and South. The orientation of the structures is in keeping with the established angle of residences along the street, and

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WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed uses are for single-family use only which is a permitted use within the zoning district of their location and no encroachments into the public right-of-way are being created, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed setback and associated orientation is compatible with established front yard setbacks of residences and businesses along the corridor, and

WHEREAS, the Board further finds that the variance arises from special circumstances that do not generally apply to the land in the general vicinity as much of the surrounding area would be required to be developed in an infill context which may have required a closer front yard setback or permitted the structures as shown, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as the proposed structures are compatible with the setbacks of surrounding development, and

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

VARIANCE from the Land Development Code Section 5.2.2 to allow a principal structure to exceed the maximum front yard setback on 800 Ash Street:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety, or welfare as the proposed dwelling is for single-family use and does not encroach into any public rights-of-way or restrict pedestrian and vehicular movement or visibility, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the site is located at the periphery of a residential neighborhood and is surrounded by a mixture of commercial and industrial facilities of varying architectural styles. The shape of the lot, specifically the front lot line, steps the lot back from the established lot lines fronting on S. Shelby Street and the front setback of the structure becomes less constrained by the street wall of residences along the corridor, and

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WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed uses are for single-family use only which is a permitted use within the zoning district of their location and no encroachments into the public right-of-way are being created, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed setback and associated orientation is the result of the shape of the lot and the overall design of the development across the three single-family development sites, and

WHEREAS, the Board further finds that the variance arises from special circumstances that do not generally apply to the land in the general vicinity as the front property line is stepped back from the established front property line of the corridor and the proposed dwelling unit is compatible with the overall design of the project across the three residential lots, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as the proposed structure is compatible with adjacent uses and the overall design of the development, and

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

VARIANCE from the Land Development Code Section 5.4.1.E to allow the accessory use area to encroach into the required side, street side (800 Ash Street only), and rear yards for all lots:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variances will not adversely affect the public health, safety, or welfare as the proposed accessory use area is intended to serve single-family uses and does not encroach into any public rights-of-way or restrict pedestrian and vehicular movement or visibility. Additionally, no structures are being proposed in the accessory use area and the area will be for resident and guest parking only, and

WHEREAS, the Board further finds that the requested variances will not alter the essential character of the general vicinity as the Traditional Neighborhood pattern is being maintained through serving the residential lots with vehicular access from the rear alley only, and

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WHEREAS, the Board further finds that the requested variances will not cause a hazard or nuisance to the public as no structures are being proposed in the accessory use area and the accessory use area is commonly used for the parking of vehicles in the traditional neighborhood, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed variances allow for an integration of parking facilities to serve the overall development across the three residential lots and no structures are being proposed, and

WHEREAS, the Board further finds that the variance arises from special circumstances that do not generally apply to the land in the general vicinity as the three residential lots are being designed as an integrated development, though they are on separate lots, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as no structures are being proposed and the three residential lots are being developed in conjunction with one another, and

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

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1056, does hereby **APPROVE** Variance from the Land Development Code Section 5.2.2 to allow principal structures to encroach into the minimum front yard setback on 1337 & 1333 S. Shelby Street (**Front/1337 S. Shelby St. – Requirement Min. 15’, Request 7’10”, Variance 7’2”**; **Front/1333 S. Shelby St. – Requirement Min. 15’, Request 6’5” & 13’, Variance 8’7” & 2’**), and Variance from the Land Development Code Section 5.2.2 to allow a principal structure to exceed the maximum front yard setback on 800 Ash Street (**Front/800 Ash St. – Requirement Max. 25’, Request 38’ & 28’4”, Variance 13’ & 3’4”**), and Variance from the Land Development Code Section 5.4.1.E to allow the accessory use area to encroach into the required side, street side (800 Ash St. only), and rear yards for all lots (**Side – Requirement Min 2’, Request 0’, Variance 2’**; **Street Side – Requirement Min. 3’, Request 0’, Variance 3’**; **Rear – Requirement Min. 5’, Request 0’, Variance 5’**), based on the Staff Report Pages 1 through 5, the testimony and evidence heard today, and the materials supplied to the Board including the detailed site plan.

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The vote was as follows:

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

Absent: Chair Allendorf

01:18:40 Meeting was recessed.

01:18:57 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 16CUP1032

Request: Modified Conditional Use Permit for Outdoor Alcohol Sales and Consumption/Indoor Entertainment Activity for a Restaurant in the C-1 Zoning District

Project Name: Martin's BBQ

Location: 3408 Indian Lake Drive

Owner: Indian Springs Community, LLC

Applicant: Blomquist Design Group, LLC

Representative: Blomquist Design Group, LLC – Marv Blomquist

Jurisdiction: Louisville Metro

Council District: 17 – Glen Stuckel

Case Manager: Joel Dock, Planner I

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

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

Agency Testimony:

01:19:21 Joel Dock presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Marv Blomquist, 10529 Timberwood Circle, Suite D, Louisville, KY 40223

Summary of testimony of those in favor:

01:24:44 Marv Blomquist spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition to the request:

No one spoke.

01:29:52 Board Members' deliberation

01:31:24 On a motion by Member Bergmann, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with applicable policies of the Comprehensive Plan as Guideline 3, Policies 1 and 3 encourage compatibility of redevelopment with the scale and site design of nearby development and with the pattern of development, as well as discouraging non-residential expansion into residential areas. The expanded improvements are to the rear of the existing restaurant, opposite the residential development, and do not increase the area of the conditional use permit, but rather improve the amenities of the serviceable area, and

WHEREAS, the Board further finds that the proposal is compatible with surrounding land uses and the general character of the area as the site is adjacent to commercial uses to its immediate North and a larger commercial developments North along Westport Road. The proposed patio provides an additional amenity to the restaurant to expand services to outdoor diners, and

WHEREAS, the Board further finds that the Metropolitan Sewer District has approved the preliminary 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 further finds that the proposal complies with the specific standards required to obtain the conditional use permit, with the exception of item "D" which relief is being sought based on the use of the adjacent property as open space maintained by the Indian Springs Community, LLC. The intent of landscaping as prescribed by Chapter 10 of the Land Development Code is to buffer and screen residential uses from potentially nuisance/higher intensity uses. In this case, the adjacent lot is not used residentially or is intended to be used residentially in the foreseeable future.

4.2.41 Outdoor Alcohol Sales and Consumption/Indoor Entertainment Activity for a Restaurant in the C-1 Zoning District

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Outdoor alcohol sales and consumption and/or indoor live entertainment for a restaurant may be permitted in the C-1 zoning district upon the granting of conditional use permit and compliance with the listed requirements:

- A. All outdoor areas for the sale and consumption of alcohol must have designated boundaries.
- B. Outdoor dining areas within the public right-of-way must receive approval from the agency responsible for transportation engineering and shall be designed in accordance with agency standards.
- C. Outdoor dining areas adjacent to the public right-of-way shall contain a physical barrier that is at least three feet in height. The barrier should be designed to permit existing legal access from building to the adjacent public right-of-way.
- ~~D. Outdoor dining areas that include the sale and consumption of alcohol within 50 feet of a residentially zoned or used property shall provide a six foot continuous screen as part of the designated boundary for the areas of the outdoor area within 50 feet of residentially used or zoned property. The continuous screen shall be in conformance with the Chapter 10, Part 4 (Implementation Standards).~~
- E. This conditional use permit shall be limited to restaurant uses in the C-1 that hold the following types of ABC licenses:
 - 1. Restaurant liquor and wine license by the drink for 100 plus seats
 - 2. Restaurant wine license by the drink for restaurants with seating for 100 and receives at least 70 percent gross receipts from food sales
- F. The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 1 A.M.
- G. The entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99); now, therefore be it

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RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1032, does hereby **APPROVE** the Conditional Use Permit of Land Development Code Section 4.2.41 for Outdoor Alcohol Sales and Consumption/Indoor Entertainment Activity for a Restaurant in the C-1 Zoning District, with the elimination of Item D (based on the fact it is adjacent to residentially zoned property that is not USED as residential property and it is going to be permanent open space), and based upon what was presented at the hearing, the Staff Report and the fact that there is no opposition, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval for CUP for Outdoor Alcohol Sales and Consumption:

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 without further review and approval by the Board.
3. The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 11 P.M.
4. The entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).

The vote was as follows:

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

Absent: Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 16CUP1019

Request: Modification of an Existing Conditional Use Permit to allow the expansion of a crematorium and sidewalk waiver along Produce Road in an M-3 zoning district

Project Name: The Borden Mortuary Group

Location: 4515 Produce Road

Owner: Timothy R. Borden Enterprises, Inc.

Applicant: Timothy R. Borden Enterprises, Inc.

Representative: James Griffin

Jurisdiction: Watterson Park

Council District: 10 – Pat Mulvihill

Case Manager: Jon E. Crumbie, Planning and Design Coordinator

NOTE: Member Fishman was recused from this case.

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

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

Agency Testimony:

01:34:28 Jon Crumbie presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

James Griffin, 4010 Dupont Circle, Suite 478, Louisville, KY 40207

Summary of testimony of those in favor:

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01:38:39 James Griffin spoke on behalf of the applicant in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

01:43:47 Board Members' deliberation

01:45:13 On a motion by Member Howard, seconded by Member Bergmann, the following resolution was adopted:

Modification of an existing Conditional Use Permit to allow the expansion of a crematorium in a M-3 zoning district:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the applicable policies of the Comprehensive Plan. Lighting will be code compliant, and

WHEREAS, the Board further finds that the proposal is compatible with the surrounding land uses with respect to height, scale, noise, drainage, lighting and appearance, and

WHEREAS, the Board further finds that Transportation Planning/Public Works and MSD have reviewed and approved the proposal. The Buechel Fire Protection District did not provide comments to staff, and

WHEREAS, the Board further finds that crematoriums may be allowed in any non-residential district, or as an accessory use to a cemetery within a residential district upon the granting of a Conditional Use Permit and compliance with the following requirements:

- A. The site shall be reviewed by the Air Pollution Control Board (APCD), and a permit shall be obtained in conformance with APCD requirements.
- B. The crematorium operation shall be a minimum of 200 feet from property containing a residential use, or greater distance as required by the board; and

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Waiver to omit sidewalk along Produce Road:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the industrial/business uses in the area on the north side of Produce Road don't have sidewalks, and

WHEREAS, the Board further finds that Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate, and

WHEREAS, the Board further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since the use will not generate foot traffic, and

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

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1019, does hereby **APPROVE** Modification of an existing Conditional Use Permit to allow the expansion of a crematorium in a M-3 zoning district and Waiver to omit sidewalk along Produce Road, based on the Staff Report Pages 1 through 4, the testimony and evidence provided today at the hearing and that the proposal meets the standards established in the Land Development Code for a Modified Conditional Use Permit and Sidewalk Waiver, and **SUBJECT** to the Conditions of Approval on Pages 7 through 10 of the Staff Report.

Conditions of Approval:

1. The CUP shall not be effective until the applicant submits a revised plan showing the specific location of the crematory.
2. The site shall be developed in strict compliance with the approved development plan. No further development shall occur on the site without prior review and approval by the Board.

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3. Lighting shall be low wattage recessed in the eaves of the building. The light pole shall have a shielded fixture with a 90 degree cut-off and shall be directed away from the residences. Lighting shall only be used to illuminate the parking area and for building security.
4. The Conditional Use Permit modification shall be “exercised” as described in KRS 100.237 within one year of the Board’s vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a crematory without further review and approval by the Board.

Additional Conditions from the Air Pollution Control Board Permit

1. Standards
 - a. PM (Regulation 7.08)
 1. No owner or operator shall cause to be discharged into the atmosphere from any affected facility, or from any air pollution control equipment installed on any affected facility, any gases that may contain particulate matter that is in excess of 2.34 lbs/hour.
 2. No owner or operator shall cause to be discharged into the atmosphere from any affected facility, or from any air pollution control equipment installed on any affected facility, any gases that may contain particulate matter that is equal to or greater than twenty percent (20%) capacity.
 - b. TAPs (Regulation 5.12)

The owner or operator shall not allow Toxic Air Pollutants to exceed the calculated adjusted significance level.
 - c. Odor (Regulation 1.13)

No person shall emit or cause to be emitted into the ambient air any substance that creates an objectionable odor beyond the person’s property line. An odor will be deemed objectionable when documented investigation by the District includes, as a minimum: observations on the odor’s nature, intensity, duration, and location, and evidence that the odor causes injury, detriment, nuisance, or annoyance to persons or to the public.
2. Monitoring

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a. PM

The afterburner/mixing and settling chamber shall be cleaned every ninety days to remove particles and debris which may restrict the air flow through the secondary chamber.

b. TAPs

1. No medical or hazardous waster shall be accepted for destruction. This includes but not limited to undifferentiated body parts resulting from autopsies or surgical procedures. Should the undifferentiated body parts be the result of dissection of cadavers from medical schools, these may be cremated.
2. All pacemakers and infusion pumps shall be removed before cremation.
3. Fiberglass, plastic and Styrofoam containers shall not be used as containers of the body during cremation.

c. Odor

1. The temperature on the afterburner controller for the secondary chamber shall not drop below 1600 F during combustion.
2. Temperature must reach 800 F on the afterburner controller indicator before igniting main burner.
3. Allow more time for cycle if unit is to be left unattended.
4. Afterburner temperature indicator must read less than 400 F before starting preheat cycle.
5. Lacquered and highly varnished wood caskets, when cremated, shall be the first run of the day.
6. For obese remains (possibly greater than 200 pounds, always greater than 300 pounds), the owner of operator shall:
 - I. Make this case the first cremation of the day
 - II. Insure that the casket be inserted head first
 - III. Use manual control of main burner
 - IV. Observe during first hour of cycle and monitor temperature closely
 - V. Observe the exhaust stack for any visible emissions
 - VI. Shut down afterburner if temperature on afterburner controller exceeds 2000 F and restart when temperature drops to 1800 F

3. Record Keeping

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- a. Training records shall be maintained on all personnel that may operate this unit and the records shall be made available to the District upon request. The records shall include who was trained and when the training was done.
 - b. Records shall be maintained on the regular cleaning of the afterburner/mixing chamber. The record shall contain who performed the task and when it was performed.
 - c. Should the facility cremate a cadaver or body parts from a cadaver, records shall be maintained as to the source of the materials cremated.
 - d. The opacity monitor shall be verified that it is operational, once per operation week of the unit. Records shall be maintained as to the status of the opacity meter and who performed the inspection and when the inspection was completed.
 - e. Records shall be maintained of actual visual emission observations made of the stack when cremating an obese body. The record shall include when the observation was made and what was observed.
4. Reporting
- a. The District shall be supplied with one copy of the Operations and Maintenance Manual and this document shall be kept updated on an annual basis.
 - b. The District shall be notified prior to initial operation so that District personnel may observe initial operation.
 - c. The District shall be supplied with the proposed operator training schedule prior to operation and when the training has been completed.
 - d. The owner or operator shall report to the District, every instance when the unit malfunctions. A malfunction is defined as when visible emissions are observed or odors detected.

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The vote was as follows:

Yes: Members Turner, Howard, Bergmann, Tharp, and Vice Chair Jarboe

Recused: Member Fishman

Absent: Chair Allendorf

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CASE NUMBER 16CUP1024

Request: Conditional Use Permit to allow outdoor alcohol sales and consumption in a C-1 zoning district
Project Name: Gander Restaurant
Location: 111 South English Station Road
Owner: Landis, LLC
Applicant: A.C. Mike, LLC
Representative: Ann Mike
Jurisdiction: Louisville Metro
Council District: 20 – Stuart Benson
Case Manager: Jon E. Crumbie, Planning and Design Coordinator

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

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

Agency Testimony:

01:48:54 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Ann Mike, 508 Foxgate Road, Louisville, KY 40223

Summary of testimony of those in favor:

01:53:18 Ann Mike spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

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01:55:02 Board Members' deliberation

01:55:42 On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal meets all applicable policies of the Comprehensive Plan. A landscape plan has been approved and implemented, and

WHEREAS, the Board further finds that 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. All the commercial uses in the area have similar, scale, intensity, traffic, noise, and lighting, and

WHEREAS, the Board further finds that the proposal has been reviewed by Public Works and MSD and both have approved the plan. The Middletown Fire Protection District has reviewed and approved the proposal, and

WHEREAS, the Board further finds that all outdoor areas for the sale and consumption of alcohol must have designated boundaries, and

WHEREAS, the Board further finds that this conditional use permit shall be limited to restaurant uses in the C-1 that hold the following types of ABC licenses:

1. Restaurant liquor and wine license by the drink for 100 plus seats
2. Restaurant wine license by the drink for restaurants with seating for 100 and receives at least 70 percent gross receipts from food sales, and

WHEREAS, the Board further finds that the use of outdoor dining areas for the sale and consumption of alcohol shall cease by 1 A.M., and

WHEREAS, the Board further finds that The entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99); now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1024, does hereby **APPROVE** the Conditional Use Permit to allow outdoor alcohol sales and consumption in a C-1 zoning district, based on

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the presentation of the staff, the Standard of Review and Staff Analysis for Conditional Use Permits, and the testimony given at the public hearing, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for outdoor alcohol sales and consumption without further review and approval by the Board.

The vote was as follows:

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

Absent: Chair Allendorf

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CASE NUMBER 16CUP1026

Request: Conditional Use Permit to allow off-street parking and landscape waivers in an R-6 zoning district
Project Name: None
Location: 1104 Central Avenue
Owner: Taylor & Central, LLC
Applicant: Taylor & Central, LLC.
Representative: Chris Brown, Erik Lattig
Jurisdiction: Louisville Metro
Council District: 6 – David James
Case Manager: Jon E. Crumbie, Planning and Design Coordinator

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

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

Agency Testimony:

01:58:06 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Tanner Nichols, 400 W. Market, Louisville, KY 40202
Chris Brown, 3001 Taylor Springs Drive, Louisville, KY 40220

Summary of testimony of those in favor:

02:07:01 Tanner Nichols spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:10:29 Chris Brown spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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02:14:01 Mr. Nichols responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

02:17:20 Board Members' deliberation

02:20:41 Chris Brown spoke in regard to the requirement for the parking and the height of the fence (see recording for detailed presentation).

02:23:04 Board Members' deliberation

02:24:51 Mr. Nichols responded to questions from the Board Members in regard to the fencing (see recording for detailed presentation).

02:25:56 Board Members' deliberation

02:27:39 On a motion by Member Howard, seconded by Member Bergmann, the following resolution was adopted:

Conditional Use Permit to allow off-street parking in an R-6 zoning district:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the Comprehensive Plan since the parking area will be paved and striped to meet Land Development Code requirements. Landscaping will be provided that will be Land Development Code compliant, and

WHEREAS, the Board further finds that the proposal is compatible with surrounding land uses with respect to scale, intensity, traffic, drainage. The site has been used for parking for a number of years, and

WHEREAS, the Board further finds that Transportation Planning and the Metropolitan Sewer District have reviewed and approved the plan. The Louisville Fire District #3 did not provide comments on the proposal, and

WHEREAS, the Board further finds that the area shall be located within 200 feet of the property on which the building to be served is located measured by the shortest walking distance (using sidewalks and designated crosswalks), and

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WHEREAS, the Board further finds that Walls, fences, or plantings shall be provided in a manner to provide protection for and be in harmony with surrounding residential property; **there will be a six foot wooden fence along the area of the parking adjacent to the residential home and it will be lowered to four foot at the front setback line of the adjacent home**, and

WHEREAS, the Board further finds that the minimum front, street side, and side yards required in the district shall be maintained free of parking. The required front yard is 15 feet. **The parking will be located approximately 14 feet from the front property line along Central Avenue**, and

WHEREAS, the Board further finds that the area shall be used exclusively for transient parking of motor vehicles belonging to invitees of the owner or lessee of said lot, and

WHEREAS, the Board further finds that the approval of all plans and specifications for the improvement, surfacing, and drainage for said parking area will be obtained from the appropriate Director of Works prior to use of the parking area, and

WHEREAS, the Board further finds that the approval of all plans and specifications for all entrances, exits, and lights shall be obtained from the department responsible for transportation planning prior to the public hearing on the Conditional Use Permit; and

Waiver of Section 10.2.4 to allow parking in the required landscape buffer area along the north property line:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the site has been used for parking for a number of years with no landscaping or buffering along the property lines, and

WHEREAS, the Board further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious

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smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the required landscaping will be provide along the property lines, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the application of the reasonable use of the land since the site would not be able to support parking without the waiver; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1026, does hereby **APPROVE** the Conditional Use Permit to allow off-street parking in an R-6 zoning district and the Landscape Waiver to allow proposed off-street parking to encroach into the required LBA along the north property line, based on the Staff Report Pages 1 through 4, the applicant's booklet, and the applicant's findings of fact for the CUP, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for off-street parking without further review and approval by the Board.

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The vote was as follows:

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

Absent: Chair Allendorf

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ADJOURNMENT

The meeting adjourned at approximately 11:19 a.m.

Chair

Secretary