

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

OCTOBER 20, 2014

A meeting of the Louisville Metro Board of Zoning Adjustment was held at 8:30.A.M. on Monday, October 20, 2014, 514 West Liberty Street, Old Jail Building, Old Jail Court Room, Louisville, Kentucky.

Members present:

David Proffitt, Chairperson
*Mike Allendorf, Vice Chairperson
Rosalind Fishman, Secretary
Betty Jarboe
Frederick Liggin
Paul Bergmann

Members absent:

Dean Tharp

Staff members present:

John Carroll, Legal Counsel
Steve Hendrix, Planning Supervisor
Joe Reverman, Planning Manager
Sherie Long, Landscape Architect
Jon Crumble, Planner II
Latondra Yates, Planner II
Beth Stevenson, Management Assistant

*Member Allendorf arrived at approximately 8:45 a.m.

The following cases were heard:

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

OCTOBER 20, 2014

APPROVAL OF MINUTES

OCTOBER 6, 2014 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

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

RESOLVED, that the Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on October 6, 2014.

YES: Members Proffitt, Liggin, Fishman.

NO: No one.

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

ABSTAINING: Members Jarboe and Bergmann.

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

OCTOBER 20, 2014

NON-HEARING CASES

CASE NO. 14VARIANCE1089

Request: Variance from the Land Development Code to allow the structure to encroach into the side yard setback.

Project Name: Haldeman Avenue Addition

Location: 255 Haldeman Avenue

Owner: Sheree Drake
257 Haldeman Avenue
Louisville, KY 40206

Applicant: Same as owner

Jurisdiction: Louisville Metro

COUNCIL DISTRICT: 9—Tina Ward-Pugh
Staff Case Manager: Regina Thomas, Associate Planner

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 in the Planning & Design Services offices. Please contact 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 October 20, 2014 public hearing proceedings.

DISCUSSION:

Steve Hendrix, Planning Supervisor, said the proposal is for a bedroom addition to the rear of the existing 1 ½ story shotgun style home. He said first tier property owners have signed the Non-Hearing Variance Consent form and are not opposed. The applicant has also received a Certificate of Appropriateness from the Clifton Historic Preservation District.

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

OCTOBER 20, 2014

NON-HEARING CASES

CASE NO. 14VARIANCE1089

On a motion by Board Member Fishman, seconded by Member Liggin, 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; and discussion at the public hearing that the applicant is requesting a variance from the Land Development Code to allow the structure to encroach into the side yard setback resultant from a proposed rear addition to the existing house; and

WHEREAS, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because it will be an improvement to the current structure which currently is in disrepair; and because the extension is still in alignment with the other homes on the street; and

WHEREAS, the Board finds that the variance will not alter the essential character of the general vicinity because the variance will allow the owner to repair and remodel the house using the Historic Clifton guidelines for windows, design and materials; and

WHEREAS, the Board finds that the variance will not cause a hazard or nuisance to the public because remodeling and repairs to the back of the house will include all new footers to replace rotted wood and broken, rotted windows; and because the remodeling will include concrete cellar access; and because all new construction will be code compliant and historic guidelines; and

WHEREAS, the Board finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the house is remaining single family residential; and the extension is no further than other homes on the street; 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 because this is one of the smaller homes in the area; and due to extensive renovation and historic compliance, along with the cost of better materials, the additional space will allow for a third bedroom, and because the renovations will increase the value of the home and be an asset to the neighborhood as a whole; and

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

OCTOBER 20, 2014

NON-HEARING CASES

CASE NO. 14VARIANCE1089

NOW, THEREFORE, BE IT RESOLVED, that the Board does hereby **GRANT** the variance to allow the structure to be 4 inches from the side property line;

BE IT FURTHER RESOLVED, that this action be effective immediately.

YES: Members Jarboe, Proffitt, Liggin, Fishman and Bergmann.

NO: No one.

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

ABSTAINING: No one.

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

OCTOBER 20, 2014

NEW BUSINESS

CASE NO. 14VARIANCE1090

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

Project Name: New Garage

Location: 2107 Boulevard Napoleon

Owner: Bruce Montana
2107 Boulevard Napoleon
Louisville, KY 40205

Applicant: Same as owner

Representative: Blue Grass Garage Builders
Joe Willis
15823 Brush Run Road
Louisville, KY 40299

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 8—Tom Owen

Staff Case Manager: Latondra Yates, 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. 5th Street).

Agency Testimony:

Staff Case Manager, Latondra Yates discussed the case summary, standard of review and staff analysis from the staff report. She said the variance is for the demolition of an existing garage and the construction of a new garage.

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

OCTOBER 20, 2014

NEW BUSINESS

CASE NO. 14VARIANCE1090

The following spoke in favor of this request:

Joe Willis.

Summary of testimony of those in favor:

Joe Willis, the applicant's builder, said the garage would be slightly larger due to the materials used (brick and veneer).

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.

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 October 20, 2014 public hearing proceedings.

After the public hearing in open business session, on a motion by Member Liggin, 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 5.4.1.D.2 of the Land Development to allow a reduction in the required 30% private yard from 2,100 square feet to 1,638 square feet, a variance of 462 square feet; and

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

OCTOBER 20, 2014

NEW BUSINESS

CASE NO. 14VARIANCE1090

WHEREAS, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because most of the private yard will be provided; and because the new garage will also be placed in approximately the same location as the previous one; and

WHEREAS, the Board finds that the variance will not alter the essential character of the general vicinity because the private yards of the other lots in the area appear to be similar; and

WHEREAS, the Board finds that the variance will not cause a hazard or nuisance to the public because it will not cause sight distance issues or obstruction of views of neighboring properties; and

WHEREAS, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the majority of the private yard will be provided; 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 because of the small size of the proposed garage and fact that the majority of the private yard will be provided;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow the private yard area to be 1,638 square feet.

YES: Members Proffitt, Liggin, Fishman, Jarboe and Bergmann.

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Tharp.

ABSTAINING: Member Allendorf.

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

OCTOBER 20, 2014

NEW BUSINESS

CASE NO. 14VARIANCE1084

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

Project Name: New Garage

Location: 1705 Cowling Avenue

Owners: Steven & Heather Harrell
1327 S. 3rd Street
Louisville, KY 40208

Applicants: Same as owners

Representative: Gilbert Construction
Abe Gilbert
12307 Old LaGrange Road, #205
Louisville, KY 40245

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. 5th 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 original house burned down and was demolished, and the new owners built a new house with an attached garage. The owners would now like to add a two-car detached

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

OCTOBER 20, 2014

NEW BUSINESS

CASE NO. 14VARIANCE1084

garage at the rear of the property. She said she received inquiries regarding the garage being used as an apartment; and that the floor area ratio (FAR) was over the requirement. Ms. Long said that there are other similar garages in the area near the alley.

The following spoke in favor of this request:

Heather Harrell.

Abe Gilbert.

Summary of testimony of those in favor:

Heather Harrell, the applicant and owner, explained that they received a permit to construct the new house with attached garage; and would now like a variance to build a new two-car detached garage. She said it will not be used as an apartment but for their cars; and that the FAR doesn't apply to garages per the Land Development Code.

Abe Gilbert, the applicant's builder, said the garage will have vinyl siding with matching shingles; and line up with the other garages on the block.

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 said they were not meeting to determine the FAR, but only consider the variance request.

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

OCTOBER 20, 2014

NEW BUSINESS

CASE NO. 14VARIANCE1084

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 October 20, 2014 public hearing proceedings.

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

WHEREAS, the 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, the applicant's justification and discussion at the public hearing that the applicant is requesting a variance from the Land Development Code, Chapter 5, Section 5.4.1D.2, to allow a reduction in the 30% required private yard area; and

WHEREAS, the Board finds that the variance will not adversely affect the public health, safety or welfare because the detached garage is not obstructing views of vehicular or pedestrian traffic; and because it is not encroaching into any easements; and because other properties in the area have similar lot configurations; and

WHEREAS, the Board finds that the variance will not alter the essential character of the general vicinity because there are other properties in the neighborhood which have garages at the rear; and because the new garage will use construction materials similar to those used in the neighborhood and the general vicinity; in addition, the private yard provided will be screened from the adjacent properties by fencing; and

WHEREAS, the Board finds that the variance will not cause a hazard or nuisance to the public because the private yard is separated from the alley by the new garage, and separated from adjacent properties by privacy fencing; also, the new garage will not obstruct any views for motorists or pedestrians; and

WHEREAS, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations since a variance is required prior to construction of the new garage allowing the private yard to be reduced to 1,284

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

OCTOBER 20, 2014

NEW BUSINESS

CASE NO. 14VARIANCE1084

square feet or 16% of the required area (2400 square feet); plus, there are other lots in the vicinity which have similar private yards; 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 the previous house was destroyed by a fire in March 2013; and because the applicant has rebuilt the house with an attached one car garage and is requesting a variance to build a second, new detached two-car garage which has limited the private yard area of the lot; and

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow a reduction in the private yard area to be 1,284 square feet.

YES: Members Allendorf, Proffitt, Liggin, Fishman, Jarboe and Bergmann.

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Tharp.

ABSTAINING: No one.

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

OCTOBER 20, 2014

NEW BUSINESS

CASE NO. 14APPEAL1006

Request: Appeal of a Notice of Refusal issued by the Department of Codes and Regulations concerning the change from one nonconforming use (automobile repair garage) to another nonconforming use (convenience grocery store—less than 1500 square feet).

Location: 1029 South 26th Street

Appellants: Khairunissa & Shaik Mohiuddin
2600 Garland Avenue
Louisville, KY 40211

Owner: Same as appellants

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 6—David James

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 Planning and Design Services offices located at 444 S. 5th Street).

Background:

An application was submitted on September 18, 2014, requesting to change a repair garage to a convenience /grocery store with packaged beer sales. The owners are pursuing a service similar to the YMCA and their Fresh Food Program.

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

OCTOBER 20, 2014

NEW BUSINESS

CASE NO. 14APPEAL1006

On October 20, 2014, at a meeting of the Board, a hearing was held on the case. A drawing showing the premises affected and the existing and/or proposed construction was presented to each Board member.

Agency Testimony:

Steve Hendrix, Planning Supervisor, discussed the case summary, previous cases on this site and staff conclusions. He said the neighbors are welcoming a new convenience/grocery; and are not opposed to the sale of beer.

The following spoke in opposition to the request:

No one.

Summary of testimony of those in opposition:

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 favor of this request:

Shaik Mohiuddin, the appellant.

Barline Venniss, 26th Street, Louisville KY 40210.

John Jacob, 1100 S. 26th Street, Louisville, KY 40210.

Derek Wright, 3806 Grand Avenue, Louisville, KY 40211.

Summary of testimony of those in favor:

Shaik Mohiuddin, said he conferred with the neighbors, who are in support of a new convenience/grocery store. He agreed not to apply for a liquor license as a condition of approval, but will apply for a beer license eventually. Mr. Mohiuddin said he would prefer the hours of operation to be 7 days a week, from 9:00 a.m. to 10:00 p.m. He said he will not have LED, flashing/scrolling signage.

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

OCTOBER 20, 2014

NEW BUSINESS

CASE NO. 14APPEAL1006

Barline Venniss said the change in use will be better for the neighborhood. She said Mr. Mohiuddin is very nice and takes care of the property.

John Jacob said he spoke with several of the City Church members, who are in support of the request as long as no liquor is sold. He said there's a need for a new convenience/grocery store in the area and will benefit the elderly that live nearby.

Derek Wright said he opposed the requested liquor store use in 2013. He said he is not opposed as long as there will be no liquor sales.

Deliberation:

The Board in general said this would be a good neighborhood serving use and less odious than the automobile repair shop. Chair Proffitt said that the owner agreed as a condition of approval not to sell liquor or try to obtain a liquor license. He said to include this as a condition of approval including the hours of operation allowing the business to be open till 10:00 p.m. instead of 9:00 p.m.

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning and Design Services offices. Please contact 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 October 20, 2014 public hearing proceedings.

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

WHEREAS, the Board finds from the file of this case, the staff report, the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that this appeal concerns a Notice of Refusal issued by the Department of Codes and Regulations concerning a change in one nonconforming use (automobile repair garage) to another nonconforming use (convenience/grocery store with packaged beer sales); and

WHEREAS, the Board finds that the convenience/grocery store with packaged beer sales is a permitted use within a C-1, Neighborhood Commercial District, which is a more restrictive zoning classification than the automobile repair garage (C-2); and

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

OCTOBER 20, 2014

NEW BUSINESS

CASE NO. 14APPEAL1006

WHEREAS, the Board finds that the convenience/grocery store with package beer sales will be no more odious or offensive than the existing automobile repair garage use being less noisy with more residents walking to the store; and because the store will not be open in the early morning, closing at 10:00 p.m., thus eliminating any early morning or late night nuisances; and because the owner will be pursuing a service similar to the YMCA's Fresh Food Program in addition to the standard convenience type store items and packaged beer sales;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the change from one nonconforming use (automobile repair garage, including body work) to another nonconforming use (convenience/grocery store with packaged beer sales); and

BE IT FURTHER RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Appeal **ON CONDITION**:

The conditions of approval are as follows:

1. The owner will only obtain a packaged beer license and will not apply for a liquor license, so no hard liquor will be sold at this store.
2. The hours of operation will be from 9:00 a.m. to 10:00 p.m., seven (7) days a week.

YES: Members Allendorf, Proffitt, Liggin, Fishman, Jarboe and Bergmann.

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Tharp.

ABSTAINING: No one.

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

OCTOBER 20, 2014

CHAIRMAN'S REPORT

The Board by general consensus determined to have one meeting in the month of January due to the holidays on January 12, 2015.

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

OCTOBER 20, 2014

The meeting adjourned at 10:00 a.m.

CHAIRPERSON

SECRETARY