

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

February 5, 2018

A meeting of the Louisville Metro Board of Zoning Adjustment was held on February 5, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Mike Allendorf, Chair
Betty Jarboe, Vice Chair
Rosalind Fishman, Secretary
Lula Howard
Lester Turner
Dwight Young
Richard Buttorff

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Haberman, Planning & Design Manager
Steve Hendrix, Planning & Design Supervisor
Jon Crumbie, Planning & Design Coordinator
John Carroll, Legal Counsel (left at approximately 1:15 p.m.)
Paul Whitty, Legal Counsel
Travis Fiechter, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

BOARD OF ZONING ADJUSTMENT MINUTES
February 5, 2018

APPROVAL OF MINUTES

JANUARY 22, 2018 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:02:37 On a motion by Member Fishman, seconded by Vice Chair Jarboe, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on January 22, 2018.

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
February 5, 2018

BUSINESS SESSION

BOZA_Election_Officers

BOZA Annual Election of Officers

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.

00:04:16 On a motion by Member Fishman, seconded by Member Turner, Mike Allendorf was **NOMINATED** as Chairperson for the Board of Zoning Adjustment.

There being no other nominations, the election was closed and the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPOINT** Mike Allendorf as Chairperson.

The vote was as follows:

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

00:09:07 On a motion by Member Turner, seconded by Member Young, Rosalind Fishman was **NOMINATED** as Vice Chairperson for the Board of Zoning Adjustment.

There being no other nominations, the election was closed and the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPOINT** Rosalind Fishman as Vice Chairperson.

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
February 5, 2018

BUSINESS SESSION

BOZA_Election_Officers

00:10:19 On a motion by Member Turner, seconded by Member Fishman, Lula Howard was **NOMINATED** as Secretary for the Board of Zoning Adjustment.

There being no other nominations, the election was closed and the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPOINT** Lula Howard as Secretary.

The vote was as follows:

Yes: Members Fishman, Turner, Young, Buttorff, Vice Chair Jarboe, and Chair Allendorf

Abstain: Member Howard

00:11:59 Chair Allendorf acknowledged that today's meeting will be Vice Chair Jarboe's last meeting. Chair Allendorf thanked Ms. Jarboe for her years of service.

BOARD OF ZONING ADJUSTMENT MINUTES

February 5, 2018

BUSINESS SESSION

CASE NUMBER 17VARIANCE1108

Request: Variance to allow a primary structure to encroach into the required side yard setbacks
Project Name: 1941 Bonnycastle Avenue Addition
Location: 1941 Bonnycastle Avenue
Owner: CNG, LLC
Applicant: Charles Nico Greipel
Representative: Charles Nico Greipel
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
Case Manager: Dante St. Germain, 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:

00:13:56 Joe Haberman presented the case on behalf of the Case Manager. Mr. Haberman responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition of the request:

No one spoke.

00:15:49 Board Members' deliberation

BOARD OF ZONING ADJUSTMENT MINUTES
February 5, 2018

BUSINESS SESSION

CASE NUMBER 17VARIANCE1108

00:16:13 Joe Haberman responded to questions from the Board Members (see recording for detailed presentation).

00:17:42 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 requested variance will not adversely affect the public health, safety or welfare as the addition will be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the addition will be constructed to match the existing structure. Also, other structures on the same street have similar designs, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed addition existed previously and would be built on the same footprint, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the addition is proposed to be constructed on the same building footprint and in the same manner as it previously existed, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the property is rectangular and has the same topographical constraints as the rest of the lots along Bonnycastle Avenue, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by preventing the applicant from constructing an addition that previously existed, 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 as the applicant is requesting the variance and has not begun construction, and

BOARD OF ZONING ADJUSTMENT MINUTES
February 5, 2018

BUSINESS SESSION

CASE NUMBER 17VARIANCE1108

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1108 does hereby **APPROVE** Variance from Land Development Code Table 5.1.10.F to allow a structure to encroach into the required side yard setback (**Requirement 2.5 ft., Request .19 ft., Variance 2.31 ft.**), based upon the Staff Report, the applicant's justification, and the fact that the applicant obtained signatures from his neighbors.

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
February 5, 2018

PUBLIC HEARING

CASE NUMBER 17CUP1080

Request:	Conditional Use Permit to allow transitional housing in an R-5 zoning district
Project Name:	A Future in H.O.P.E. Youth Services, Inc.
Location:	3735 Lentz Avenue
Owner:	Angel Black
Applicant:	Michael McCloud
Representative:	Michael McCloud
Jurisdiction:	Louisville Metro
Council District:	15 – Marianne Butler
Case Manager:	Jon E. Crumbie, Planning and Design Coordinator

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

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

Agency Testimony:

00:19:19 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:

Michael McCloud, 4917 South 5th Street, Louisville, KY 40214

Summary of testimony of those in favor:

00:25:41 Michael McCloud spoke in favor of the request. Mr. McCloud explained the program and responded to questions from the Board Members (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
February 5, 2018

PUBLIC HEARING

CASE NUMBER 17CUP1080

The following spoke in opposition of the request:
Jerry Richard, 3675 Woodruff, Louisville, KY 40215

Summary of testimony of those in opposition:

00:44:28 Jerry Richard spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

00:47:56 Michael McCloud spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

00:50:48 **Board Members' deliberation**

00:53:32 On a motion by Vice Chair Jarboe, seconded by Member Fishman, 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, and

WHEREAS, the Board further finds that the proposal is compatible with the surrounding land uses with respect to height, bulk, scale, intensity, traffic, noise, drainage, lighting, and appearance since it will be located in an existing residential structure, and

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed and approved the proposal, and

WHEREAS, the Board further finds that:

4.2.55 Transitional Housing may be allowed in any zoning district upon the granting of a conditional use permit and compliance with the listed requirements.

A. Conditional Use Standards – General (all districts)

BOARD OF ZONING ADJUSTMENT MINUTES
February 5, 2018

PUBLIC HEARING

CASE NUMBER 17CUP1080

1. No building shall be closer than 30 feet to a property line unless required to by a form district maximum setback or build-to-line. ***The proposed transitional housing will be located in an existing structure and is approximately 3 feet from the north property line, approximately 9 feet from the south property line, and 25 feet from the front (west) property line.***
2. Parking spaces shall be determined by the board of zoning based on the number of employees and the potential number of visitors to the site as described by the applicant in a parking study of similar uses. ***There is 1 parking space along Lentz Avenue and 2 parking spaces at the rear of the property for a total of 3.***
3. Signage for transitional housing shall be in accordance with chapter 8 of the LDC for nonresidential uses. ***Signage is not proposed.***
4. The Board of Zoning Adjustments shall take into account the location of other transitional housing, homeless shelter or rehabilitation home in its analysis of conditional use permit application for transitional housing.
5. All applicable land development code requirements including but not limited to floor area ratio, building setback, landscape buffers and building heights shall be maintained. ***The applicant is asking for relief to omit the required landscape buffers and keep the existing trees and landscaping. All other land development code requirements will be met.***
6. For conversion of existing structures: A report from the applicable fire official shall be provided to the Board outlining the necessary steps for compliance with fire code safety standards prior to establishing occupancy of the structure for the proposed use.

B. Conditional Use Standards – Single Family Zoning Districts Only:

1. Signs - There shall be allowed one non-illuminated sign identifying the name and use, which sign shall be limited in size to four square feet and be placed on the building. ***Signage is not proposed.***
2. Residential Structure - The structure shall remain or shall be constructed so that the exterior design and ornamentation is residential in character and compatible with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential.

BOARD OF ZONING ADJUSTMENT MINUTES
February 5, 2018

PUBLIC HEARING

CASE NUMBER 17CUP1080

3. Alterations or Improvements to the Structure - Where such a use is permitted in a structure which has been used as a residence, the permittee shall make no substantial alterations or improvements to the structure which would impair the structure's use as a residence at a later time.
4. Off-street parking not located within a drive-way shall be located to the side or rear of the building(s); now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1080 does hereby **APPROVE** Conditional Use Permit to allow transitional housing in an R-5 zoning district, noting Relief from Items 4A1, 4A2, and 4A5 as stated in the Staff Report, based upon the Staff Report, the testimony heard today, the responses from the State of Kentucky, 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 transitional housing without further review and approval by the Board.
3. Certified Social Worker or Youth Councilor on site at all times- 24/7.
4. Hold quarterly meetings with interested neighbors or advisory board. Provide a 7 day notice prior to meeting date.
5. No more than 5 residents living at location at any one time.
6. No blending of gender at location.
7. No music or outdoor activity after 8:00 p.m. on any night of the week.

BOARD OF ZONING ADJUSTMENT MINUTES
February 5, 2018

PUBLIC HEARING

CASE NUMBER 17CUP1080

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
February 5, 2018

PUBLIC HEARING

CASE NUMBER 16CUP1001

Request:	Scrubber System Report
Project Name:	16CUP1001
Location:	1200 Story Avenue
Owner:	JBS USA, LLC & Swift Pork Company
Applicant:	JBS USA, LLC & Swift Pork Company
Representative:	Glenn Price
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Steve Hendrix, Planning Supervisor

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.)

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Agency Testimony:

00:57:54 Steve Hendrix presented the case (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Glenn Price, Frost Brown Todd, 400 W. Market St., Suite 3200, Louisville, KY 40202

Dennis Conniff, Frost Brown Todd, 400 W. Market St., Suite 3200, Louisville, KY 40202

Tim Stern, 1200 Story Avenue, Louisville, KY 40202

Summary of testimony of those in favor:

00:58:20 Glenn Price spoke in favor of the request and responded to questions from the Board Members. Mr. Price stated this is probably the second meeting where nobody from the Butchertown Neighborhood Association has attended, nor have they had any complaints to the Board about odor issues. Mr.

BOARD OF ZONING ADJUSTMENT MINUTES
February 5, 2018

PUBLIC HEARING

CASE NUMBER 16CUP1001

Price stated he doesn't want to make a request, but if the Board should view them as having addressed this issue and resolved it, either today or maybe the next time they come up to make their quarterly report to make that the last one, they would appreciate it. Mr. Price stated if the Board does not think that is appropriate, they will keep on doing it (see recording for detailed presentation).

01:02:19 Dennis Conniff provided a report to the Board regarding the Scrubber System. Mr. Conniff responded to questions from the Board Members (see recording for detailed presentation).

01:05:37 Tim Stern provided information regarding the odor control process and responded to questions from the Board Members (see recording for detailed presentation).

01:10:25 Dennis Conniff responded to questions from the Board Members (see recording for detailed presentation).

01:13:00 **Board Members' deliberation**

01:16:36 Dennis Conniff responded to questions from the Board Members (see recording for detailed presentation).

01:24:12 On a motion by Vice Chair Jarboe, seconded by Member Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 16CUP1001 does hereby **ACCEPT** the Scrubber System Report as presented.

The vote was as follows:

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

01:25:26 On a motion by Vice Chair Jarboe, seconded by Member Young, the following resolution was adopted:

BOARD OF ZONING ADJUSTMENT MINUTES
February 5, 2018

PUBLIC HEARING

CASE NUMBER 16CUP1001

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 16CUP1001 does hereby **CONTINUE** the case to the July 2, 2018 Board of Zoning Adjustment meeting for the purpose of receiving another follow up report from the applicant regarding the scrubber system.

The vote was as follows:

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

01:26:25 Meeting was recessed.

01:26:30 Meeting was reconvened.

BOARD OF ZONING ADJUSTMENT MINUTES
February 5, 2018

PUBLIC HEARING

BOZA_Annual_Report

Request: BOZA Annual Report
Case Manager: Joe Haberman, Planning & Design Manager

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.

Annual Report:

01:26:51 Joe Haberman presented the 2017 Annual Report. Staff and Board Members discussed items presented in the Annual Report (see recording for detailed presentation).

This agenda item was for informational purposes only; therefore, no vote or action was taken.

BOARD OF ZONING ADJUSTMENT MINUTES
February 5, 2018

ADJOURNMENT

The meeting adjourned at approximately 3:01 p.m.

Michael Clary

Chair

Lela Kernal per Michael Allendorf

Secretary *Chair*