

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

**November 6, 2017**

A meeting of the Louisville Metro Board of Zoning Adjustment was held on November 6, 2017 at 8:30 a.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  
Richard Buttorff  
Dwight Young

**Staff Members Present:**

Emily Liu, Planning & Design Director  
Joe Haberman, Planning & Design Manager  
Brian Mabry, Planning & Design Supervisor  
Beth Jones, Planner II  
Dante St. Germain, Planner I  
Paul Whitty, Legal Counsel  
Travis Fiechter, Legal Counsel  
Sue Reid, Management Assistant

The following cases were heard:

**BOARD OF ZONING ADJUSTMENT MINUTES  
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**APPROVAL OF MINUTES**

**OCTOBER 30, 2017 BOARD OF ZONING ADJUSTMENT MEETING MINUTES**

**00:02:15** On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on October 30, 2017.

**The vote was as follows:**

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

**Abstain: Member Young**

**BOARD OF ZONING ADJUSTMENT MINUTES**  
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**BUSINESS SESSION**

**CASE NUMBER 17VARIANCE1074**

Request: Variance to allow a structure to encroach into the required side yard setback  
Project Name: 520 N 27<sup>th</sup> Street Renovation  
Location: 520 N 27<sup>th</sup> Street  
Owner: Vaughn Yeiser Real Estate Inv  
Applicant: Wesley Vaughn  
Representative: Wesley Vaughn  
Jurisdiction: Louisville Metro  
Council District: 5 – Cheri Bryant Hamilton  
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 5<sup>th</sup> 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:**

**00:03:42** Dante St. Germain presented the case and showed the site plan. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

**00:07:54** 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 renovated section 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 neighborhood is characterized by narrow lots with narrow separations between structures, and

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**BUSINESS SESSION**

**CASE NUMBER 17VARIANCE1074**

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed renovation will be constructed according to building codes, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed renovation will replace the existing structure on the existing footprint, with no change proposed to the footprint of the building, 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 as the renovated section of the house is proposed to be located on the same footprint as the existing, unsound section of the house to be replaced, 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 requiring the applicant to move the renovated section to the side of the existing footprint, a costly change to the house's design, 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

**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 17VARIANCE1074 does hereby **APPROVE** Variance from Land Development Code Section 5.1.10.F to allow a structure to encroach into the required side yard setback (**Requirement 2.16 ft., Request 0 ft., Variance 2.16 ft.**), based upon the Staff Report, the fact that the neighbors have all signed off, the site plan and elevations, and the applicant's justification.

**The vote was as follows:**

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

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**PUBLIC HEARING**

**CASE NUMBER 17VARIANCE1064**

Request:	Variance to allow a private yard area to be less than 30% of the area of a lot – Continued From October 30 <sup>th</sup>
Project Name:	739 S 43 <sup>rd</sup> Street Addition and Garage
Location:	739 S 43 <sup>rd</sup> Street
Owner:	Kimberly Miles Lightsy
Applicant:	Kimberly Lightsy
Representative:	Kimberly Lightsy
Jurisdiction:	Louisville Metro
Council District:	1 – Jessica Green
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 5<sup>th</sup> 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:**

**00:09:36** Dante St. Germain presented the case and showed a Powerpoint presentation. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

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

Milton Haskins, 900 W. Market Street, Suite 101, Louisville, KY 40202

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

**00:14:17** Milton Haskins spoke on behalf of the applicant in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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**PUBLIC HEARING**

**CASE NUMBER 17VARIANCE1064**

**00:15:51 Board Members' deliberation**

**00:16:18** On a motion by Member Howard, 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 as significant green space will remain in the reduced private yard area, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the neighborhood is characterized by houses both with and without detached garages on the alley, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the reduced private yard area will retain significant green space, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the Traditional Neighborhood form district encourages parking in the rear of the lot off the alley, which the garage will achieve, 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 because the lot is regular in shape and of similar dimensions to other lots in the neighborhood, 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 on the house or constructing a garage, 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

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

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**PUBLIC HEARING**

**CASE NUMBER 17VARIANCE1064**

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1064 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.2 to allow a private yard area to be less than 30% of the area of the lot (**Requirement 30% [1,860 sf], Request 16% [1,103 sf], Variance 14% [847 sf]**), based upon the Staff Report, the presentation, the testimony of the applicant's representative, the site plan and the rendering for the garage, and the applicant's justification.

**The vote was as follows:**

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

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**PUBLIC HEARING**

**CASE NUMBER 17CUP1068**

Request:	Conditional Use Permit to allow a short term rental of a dwelling unit in the TNZD
Project Name:	Short-Term Rental
Location:	1381 S. Brook Street
Owner:	Major Robertson
Applicant:	Major Robertson
Representative:	Major Robertson
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Beth Jones, AICP, Planner II

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 5<sup>th</sup> 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:**

**00:18:27** Beth Jones presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

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

Major Robertson, 1381 S. Brook Street, Louisville, KY

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

**00:21:08** Major Robertson 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 17CUP1068**

**OPPOSITION:**

**00:26:10** Member Howard read from a letter in opposition from a neighbor which stated Mr. Robertson continues to violate the Ordinance that requires garbage and recycle bins to be moved onto the property rather than storing these on the sidewalk, and that requests have been made to correct that infraction, yet he continues to leave the bin and the garbage can on the sidewalk. Member Howard asked Mr. Robertson if he knew about this (see recording for detailed presentation).

**00:26:50** Mr. Robertson stated this is the first house he had ever purchased and he wasn't aware of this, but as soon as he got that Ordinance and was made aware of this, he's tried very hard to make sure that happens. Mr. Robertson stated the state of the property before he purchased it was not in that great of condition, and he's really put in a lot of effort and he just wants to continue to see it thrive (see recording for detailed presentation).

**00:28:19 Board Members' deliberation**

**00:32:25** On a motion by Vice Chair Jarboe, seconded by Member Young, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the proposal does not conflict with Comprehensive Plan policies, and

**WHEREAS**, the Board further finds that the proposed use is compatible with surrounding development. No exterior alterations to the existing structure or site are proposed, and

**WHEREAS**, the Board further finds that the subject property is served by existing public utilities and facilities. The proposal will not create substantial additional requirements for the site, and

**WHEREAS**, the Board further finds that:

A short term rental of dwelling unit that is not the primary residence of the host in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 or R-8A district and a short term rental of any dwelling unit in a TNZD district may be allowed

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upon the granting of a Conditional Use Permit. In addition to any conditions of approval, a short term rental and its host shall meet the following requirements:

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **According to the applicant, the dwelling unit has five bedrooms; LDC regulations permit up to 14 guests.**
- D. The dwelling unit shall be a single-family residence, duplex or condominium. This provision shall not be waived or adjusted. **The dwelling unit is a single-family residence.**
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **Seven on-street parking spaces are available on S. Brook Street and E. Magnolia Avenue.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

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**PUBLIC HEARING**

**CASE NUMBER 17CUP1068**

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1068 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit in the Old Louisville TNZD, based upon the Staff Report, and the applicant's testimony, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not registered with Develop Louisville and with the Revenue Commission within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.
2. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.
3. The owner of the property shall adhere to Code Ordinances regarding the storage of garbage cans and recycling bins on the property and not on the sidewalk.

**The vote was as follows:**

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

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**PUBLIC HEARING**

**CASE NUMBER 17CUP1063**

Request: Conditional Use Permit to allow a short term rental of a dwelling unit not the primary residence of the owner  
Project Name: Short-Term Rental  
Location: 4310 Hannah Avenue  
Owner: Alex Wilson  
Applicant: Chris Payne  
Representative: Chris Payne  
Jurisdiction: Louisville Metro  
Council District: 21 – Dan Johnson  
Case Manager: Beth Jones, AICP, Planner II

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 5<sup>th</sup> 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:**

**00:34:43** Beth Jones stated the applicant is not here, and she has not received any communication from the applicant that they would not be here. Ms. Jones presented the case and showed a Powerpoint presentation. Ms. Jones 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:**

Michael Evans, 4309 Hannah Avenue, Louisville, KY 40213  
Chris Hanna, 4312 Hannah Avenue, Louisville, KY 40213  
Erma Hanna, 4312 Hannah Avenue, Louisville, KY 40213  
Dustin Sanders, 4308 Hannah Avenue, Louisville, KY 40213

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**CASE NUMBER 17CUP1063**

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

**00:41:49** Michael Evans spoke in opposition of the request. Mr. Evans stated he would like the integrity of the street to stay the way it is. Mr. Evans stated the meeting they had with the applicant was not helpful at all. Mr. Evans stated the applicant was arrogant and would not answer any of their questions. Mr. Evans stated the property has not been kept up like it was when someone was living there full time. Mr. Evans responded to questions from the Board Members (see recording for detailed presentation).

**00:49:21** Chris Hanna spoke in opposition of the request. Mr. Hanna stated the owner of the property was upset when he found out this house was going to be rented as an Airbnb, but then he decided to just raise the rent and now he is okay with that. Mr. Hanna stated the first group that moved into this house stayed there for about seven months. Mr. Hanna stated renters have had dogs that have come over and messed in his yard and he spoke to them about it but it continued to happen. Mr. Hanna stated they have seen prostitutes being called to the house at two o'clock in the morning. Mr. Hanna stated they are very close to the high school and there are kids out walking and these are the kind of things he is worried about, it's not just all the cars that are on the street all the time. Mr. Hanna stated the whole fabric of the neighborhood has changed since this property has been operated as an Airbnb. Mr. Hanna stated he never sees Chris; he says he lives there but he's only seen him four or five times in the time he's been doing this. Mr. Hanna stated he wished Dustin was here because he had pictures of the things they are talking about. Mr. Hanna stated grass being high is not the only thing, Chris is not up-keeping this place (see recording for detailed presentation).

**00:55:06** Beth Jones stated she had a phone message from someone named Dustin stating he had sent a Powerpoint, but she had not received it (see recording for detailed presentation).

**00:57:12** Chair Allendorf stated we would take a ten minute recess to allow the opposition time for their neighbor who has the presentation to arrive (see recording for detailed presentation).

**00:54:41 Meeting was recessed.**

**00:58:09 Meeting was reconvened.**

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**CASE NUMBER 17CUP1063**

**00:58:54** Erma Hanna spoke in opposition of the request. Ms. Hanna stated about a month or so ago there was supposedly a convention in town and she was taking pictures of all of the cars that were there about a week and a half. Ms. Hanna stated on the day they left, a man came to her door and said he saw that she was taking pictures and he was going to ask her to delete those pictures because he was under cover. Ms. Hanna stated the point is you don't know who is next door to you. Ms. Hanna stated the garage is full of furniture and they come in all hours of the day and move stuff around. Ms. Hanna stated she came home one day and there were people throwing a Frisbee in her yard (see recording for detailed presentation).

**01:03:31** Dustin Sanders spoke in opposition of the request and showed a Powerpoint presentation. Mr. Sanders stated Chris Payne, the person that is renting out the house, has failed to meet six of the nine conditions which are A, B, C, E, G, and I. Mr. Sanders provided examples of how these conditions have not been met. Mr. Sanders provided examples of negative effects on the neighborhood (see recording for detailed presentation).

**01:18:11** Erma Hanna stated there have been multiple families staying at this residence at the same time, each of them paying different amounts of rent (see recording for detailed presentation).

**01:18:41** Beth Jones confirmed the address for the owner of the property (see recording for detailed presentation).

**01:19:20 Board Members' deliberation**

**01:29:20** On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1063 does hereby **DENY** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host, based upon the applicant's activities in promoting and advertising the property on Airbnb and flagrant violation of Ordinances, and further based upon the testimony presented by the opposition in great detail that suggests that the applicant is not inclined by a pattern of behavior to conform to the regulations of the Code.

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**PUBLIC HEARING**

**CASE NUMBER 17CUP1063**

**The vote was as follows:**

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

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**CHAIRMAN OR COMMISSION DIRECTOR'S REPORT**

**CASE NUMBER 17MISC1072**

Proposed 2018 BOZA Calendar

**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:**

**01:32:29** Brian Mabry presented the calendar for 2018 Public Hearing dates for the Board of Zoning Adjustment. Mr. Mabry pointed out some months where there will be a third Monday in the month, as well as a few months that would not fit the normal pattern where the meeting is scheduled for a Tuesday or a fourth Monday, etc. Mr. Mabry responded to questions from the Board Members. The Board Members discussed the proposed meeting dates (see recording for detailed presentation).

**01:40:17** The Board, by general consensus, **DEFERRED** action on the approval of the 2018 Board of Zoning Adjustment Meeting Calendar until the November 20, 2017 Board of Zoning Adjustment meeting.



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**CHAIRMAN OR COMMISSION DIRECTOR'S REPORT**

**CASE NUMBER 17MISC1073**

Proposed Amendment to BOZA Bylaws Related to Regular Meeting Time

**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:**

**01:40:28** Brian Mabry presented a proposed amendment to the BOZA Bylaws related to the regular meeting time. Mr. Mabry stated the proposal is to change the meeting start time from 8:30 a.m. to 1:00 p.m. Mr. Mabry stated the rationale being to bring this meeting within the mainstream of the other meetings that are similar with the Planning Commission, the Development Review Committee and the Land Development and Transportation Committee. Mr. Mabry stated this also takes into consideration applicants for and against various proposals and their need to take off for an entire day rather than part of the day. Mr. Mabry responded to questions from the Board Members. The Board Members discussed the proposed change (see recording for detailed presentation).

**01:54:24** On a motion by Member Howard, seconded by Member Young, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 17MISC1073 does hereby **APPROVE** proposed changes to BOZA Bylaws, Article 7 under Meetings Section 1A (changing the start time of BOZA meetings from 8:30 a.m. to 1:00 p.m.).

**The vote was as follows:**

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

**No: Member Fishman**

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**CHAIRMAN OR COMMISSION DIRECTOR'S REPORT**

**CASE NUMBER 17MISC1073**

**NOTE:** Following the November 6, 2017 Board of Zoning Adjustment meeting, it was concluded that this item should be re-docketed and reconsidered at a future meeting where it can be ensured that the 7-day noticing requirement for such an amendment has been met.

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**ADJOURNMENT**

**01:55:35** Prior to adjournment Vice Chair Jarboe stated the item has always been there whereby the Chairperson can appoint committees to report back, and she's always thought that they should be given that opportunity to do so. For example, if they wanted to have a committee to sit in on the rewriting of the 2040 Code and report back to the Board. Vice Chair Jarboe stated in her years here she has sometimes felt cut off from what the Planning Commission knows and does and BOZA is not because they don't have a representative in those hearings. Emily Liu stated she thinks that's a good idea that can be explored a little more (see recording for detailed presentation).

The meeting adjourned at approximately 11:02 a.m.

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**Chair**

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**Secretary**