

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

**MARCH 16, 2015**

A meeting of the Louisville Metro Board of Zoning Adjustment was held at 8:30 A.M. on Monday, March 16, 2015, 514 West Liberty Street, Old Jail Building, Old Jail Court Room, Louisville, Kentucky.

**Members present:**

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

**Members absent:**

Member Allendorf, Vice Chairperson

**Staff members present:**

Emily Liu, Director, Planning & Design Services  
Jonathan Baker, Legal Counsel  
Jessica Wethington, Planning Information Specialist  
Steve Hendrix, Planning Supervisor  
Sherie Long, Landscape Architect  
Jon Crumby, Planner II  
Latondra Yates, Planner II  
Chris Brown, Planner II  
Matthew Doyle, Planner I  
Beth Stevenson, Management Assistant

\*Member Bergmann left at 11:38 a.m. and Member Liggin left at approximately 1:00 p.m.

The following cases were heard:

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**APPROVAL OF MINUTES**

**APPROVAL OF THE MINUTES OF THE MEETING HELD ON MARCH 2, 2015**

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

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on March 2, 2015.

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

**NO: No one.**

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

**ABSTAINING: No one.**

**MINUTES OF THE MEETING  
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**MARCH 16, 2015**

**BUSINESS SESSION:**

**CASE NO. 13CUP1011**

**Request:** As per Condition of Approval #5 heard by the Board on March 17, 2014). Modification of a Conditional Use Permit.

**Project Name:** Air Pollution Control District Report

**Location:** 1200 Story Avenue

**Owner:** JBS USA, LLC  
1200 Story Avenue  
Louisville, KY 40202

**Applicant:** Same as Owner

**Attorneys:** Frost Brown Todd  
Glenn Price, Esq.  
400 W. Market Street, Ste. 3200  
Louisville, KY 40202

Frost Brown Todd  
Dennis Conniff, Esq.  
400 W. Market Street, Ste. 3200  
Louisville, KY 40202

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 4—David Tandy**

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

**Supporting the applicant:**

Glenn Price, the applicant's attorney, said this report is in regard to an update on the Air Pollution Control Violations. He said the issues are the odors coming from the plant due to the hog pens and the rendering process. His client tried the Ozone Scrubber to reduce odors, but was not a good option because the chlorine will eventually destroy various parts of the machines. He said they now want to try an Air Code ionized system, which will be safe for the employees, hogs and equipment. He said this machinery was just delivered to the plant this past weekend and could be up and running within a couple of weeks.

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**CASE NO. 13CUP1011**

Dennis Conniff, the applicant's environmental attorney, said they completed the stock pen enclosures; and will be installing the Air Code system Mr. Price discussed. He said they are still meeting with the Air Pollution Control Board (APCD) to resolve odor violations, but needed information on their method of measuring odors and various definitions he wasn't familiar with. Chair Proffitt said he would like to see the results of the new system. Mr. Conniff agreed.

**Agency Testimony:**

Matt King with APCD was questioned about the length of the process for installing the new Air Code system. Mr. King said once they receive the application, should only take a couple of days. Chair Proffitt asked Mr. King and Mr. Price to set a date to meet to discuss the outstanding violations and how they can be resolved. Mr. King agreed.

**Opposed:**

Jon Salomon, Attorney for the Butchertown Neighborhood Association, said they need conditions of approval to deal with the odors coming from the plant, because this issue hasn't been resolved. He said they keep trying different approaches that aren't working. Chair Proffitt said it appears they are trying to resolve the odor issue and should be allowed to try the new equipment before they report back to the Board.

**Discussion:**

Jon Baker, the Board's legal counsel, said adding conditions of approval right now would not be appropriate; and said that the plant needs time to try the new equipment. He said the Board could decide later if they need a modification of the existing conditional use permit or revocation hearing.

Mr. Price agreed to submit the information regarding the new equipment to staff in approximately 2 months to check the system and do the report.

**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 March 16, 2015 public hearing proceedings.**

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**BUSINESS SESSION:**

**CASE NO. 13CUP1011**

The Board did not vote, but requested a report to see how the new ionized equipment has reduced the odors in approximately two months; and to report back to the with this information prior to the next 6 month meeting which will be on September 21, 2015.

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**MARCH 16, 2015**

**NEW BUSINESS:**

**CASE NO. 15VARIANCE1004**

**Request:** Variance from the Land Development Code to allow an existing fence to exceed the maximum height.

**Project Name:** Economy Inn & Suites Fence

**Location:** 3304 Bardstown Road

**Owner:** Economy Inn & Suites  
Kelly Kado  
3304 Bardstown Road  
Louisville, KY 40218

**Applicant:** Economy Inn & Suites  
Tony Yaldo  
3304 Bardstown Road  
Louisville, KY 40218

**Representative:** Same as applicant

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 10—Steve Magre**

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

**(Continued from February 16, 2015 due to inclement weather and lack of a quorum)**

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 for the original hearing date.

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

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**NEW BUSINESS:**

**CASE NO. 15VARIANCE1004**

**Agency Testimony:**

Staff Case Manager, Sherie' Long discussed the case summary, standard of review and staff analysis from the staff report. She said the applicant received a Notice of Violation for the construction of a 12 ft. tall fence, when the requirement is 8 ft. tall. She said the applicant built the fence not realizing they needed a permit; and to reduce reoccurring criminal activities, littering and disruptive behavior from the hotel tenants next to the adjacent residential properties. She said several people have called about this case; and read a letter into the record from Nick Spears (page 10 of Staff Report) who does not want this business near him anymore.

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

Kelly Kado, the owner of Economy Inn & Suites.

Tony Yaldo, Economy Inn & Suites.

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

Kelly Kado, the owner of the property, said he spent \$12,000.00 on the fence out of respect for the adjacent neighbors. He said he hired a fence contractor, but wasn't told that he needed a permit. Mr. Kado said the neighbors wanted the fence 12 ft. tall to prevent his tenants from throwing trash onto their properties and separation in general. He said he has stopped the criminal activity.

Chair Proffitt said the smooth/finished side of the fence should be facing the residential per the Land Development Code.

Mr. Kado said he feels the fence has been installed properly.

Tony Yaldo said his family owns this business and that the existing fence has been in place for over 30 years and is also 12 ft. tall.

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

Council Member Steve Magre, District 10, 601 W. Jefferson Street, Louisville, KY 40202.

Theresa Underwood, 3319 Sumner Road, Louisville, KY 40218.

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

Council Member Steve Magre, said he supports the height of the fence to protect the neighbors, but that a lot of criminal activity goes on here. He said this hotel is a nuisance to area residents; the Police Department and Health Department. He said he is staying neutral with regard to the fence since it serves a purpose.

Theresa Underwood said she lives adjacent to this property where she has found needles on her property just 10 feet away from where her kids play. She said someone threw a butcher knife on her property when her kids were outside playing. She said there is drug and prostitution activity going on all day.

**Rebuttal:**

Mr. Kado agreed to apply for a permit to close the gap between the fences. Mr. Yaldo said he will continue to talk to the neighbors and make changes to make the neighborhood better.

**Deliberation:**

The Board in general felt the fence will serve some protection to the neighbors.

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a variance from the Land Development Code, Chapter 4, Section 4.4.3.A.1.a.ii. to allow an existing fence to exceed the maximum height; and

**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the additional height of fencing is



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**NEW BUSINESS:**

**CASE NO. 15VARIANCE1004**

being provided in an attempt to prevent destruction of property, criminal activity, littering, and disruptive behavior of the hotel tenants and guest on the adjacent residential properties; and because the applicant agreed to apply for a permit and close the gap between the fences; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity because the newer 12 foot wooden fence is similar to an existing older wooden fence located to the north; and because the applicant agreed to apply for a permit and close the gap between these fences; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public because the new 12 foot tall fence is similar to the existing fence located north of the new fence; and because the added height is an attempt to relieve adjacent property owners of both hazards and nuisances including: the reoccurring destruction of property, criminal activities and disruptive behavior of the hotel tenants and guests; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the existing fence height is similar to the older existing fence height to the north; and because the circumstances have created a necessity for a sufficient barrier between the residential properties and the hotel property; 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 activities around the hotel have created a situation where a barrier is necessary to eliminate or reduce the impact on the adjacent residential properties; and, in order to create privacy and reduce nuisances, the taller fence is necessary; and because the applicant agreed to apply for a permit and close the gap between the new and older fence; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would create an unnecessary hardship not on the applicant, but the adjacent property owners, because without the taller fence, the impact of the hotel tenant's and guest's activities will disrupt and deprive the adjacent property owners of the use of their private rear yards; and

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**NEW BUSINESS:**

**CASE NO. 15VARIANCE1004**

**WHEREAS**, the Board finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought, because the owner did not willfully violate the zoning regulation, but instead was attempting to reduce the negative impact on the adjacent properties by installing a fence at the same height as the existing fence to the north;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow an existing fence to be 12 feet tall along the west property line **ON CONDITION** that the applicant apply for a permit and close the gap between the two fences.

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

**NO: No one.**

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

**ABSTAINING: No one.**

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**MARCH 16, 2015**

**NEW BUSINESS:**

**CASE NO. 15VARIANCE1000**

**Request:** Variances from the Land Development Code to allow reductions in the required front and street side yards on lots 373-385 along Sturbridge Circle and Sturbridge as shown on the Preliminary Subdivision Plan

**Project Name:** Locust Creek, Section 10B

**Location:** Lots 373-385 along Sturbridge Circle and Sturbridge

**Owner:** Creek Capital, Inc.  
Thomas Buetow  
500 W. Jefferson Street, Ste. 1510  
Louisville, KY 40202

**Applicant:** Same as owner

**Representative:** Sabak, Wilson & Lingo  
Kelli Jones  
608 S. Third Street  
Louisville, KY 40202

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 19—Julie Denton**  
**Staff Case Manager: Matthew Doyle, Planner I**  
**(Rescheduled from March 2, 2015)**

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

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

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**NEW BUSINESS:**

**CASE NO. 15VARIANCE1000**

**Agency Testimony:**

Staff Case Manager, Matthew Doyle discussed the case summary, standard of review and staff analysis from the staff report. He said the applicant has reduced the number of buildable lots from 18 to 13 to protect the intermittent stream.

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

Kelli Jones.

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

Kelli Jones, the applicant's representative, said they are asking for a 10 ft. variance to further protect the stream in addition to reducing 4 of the original 18 lots. She said the homeowners association will care for the open space areas.

**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 liked the new plan and the protection of the stream.

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**NEW BUSINESS:**

**CASE NO. 15VARIANCE1000**

**Variances—To allow reductions in the required front and street side yards on Lots 363-385 along Sturbridge Circle and Sturbridge as shown on the Preliminary Subdivision Plan:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting variances from Section 5.3.1.C, Table 5.3.1 of the Land Development Code to allow reductions in the required front and street side yards on Lots 373-385 along Sturbridge Circle and Sturbridge as shown on the Preliminary Subdivision Plan; and

**WHEREAS**, the Board finds that the requested variances will not adversely affect the public health, safety or welfare since the variances are internal to the subdivision and maintains an appropriate setback for a single family residential subdivision; and

**WHEREAS**, the Board finds that the variances will not alter the essential character of the general vicinity since the variances maintain an appropriate setback for a single family residential subdivision; and

**WHEREAS**, the Board finds that the variances will not cause a hazard or nuisance to the public since the variances are internal to the subdivision, maintains an appropriate setback for a single family residential subdivision, and lessens the impact on the intermittent stream; and

**WHEREAS**, the Board finds that the variances will not allow an unreasonable circumvention of the zoning regulations since the variances will allow an appropriate setback for a single family residential subdivision and lessens the impact of an intermittent stream; and

**WHEREAS**, the Board finds that the variances arise from special circumstances which do not generally apply to land in the general vicinity or the same zone since there is an existing intermittent stream in the rear lots; and

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**NEW BUSINESS:**

**CASE NO. 15VARIANCE1000**

**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 since maintaining the required setbacks would locate the structures closer to the existing intermittent stream which the applicant is trying to protect; and

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variances to allow reductions in the required front and street side yards on Lots 373-385 along Sturbridge Road and Sturbridge as shown on the Preliminary Subdivision Plan.

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

**NO: No one.**

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

**ABSTAINING: No one.**

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**MARCH 16, 2015**

**NEW BUSINESS:**

**CASE NO. 14VARIANCE1105**

**Request:** Variance from Section 5.4.1.E.6 of the Land Development Code to allow a carport to encroach into the required 2-foot side yard. The requested setback is 1 foot 6 inches, a variance of 6 inches.

**Project Name:** Carport

**Location:** 123 E. Amherst Avenue

**Owner:** Truc-Mai T. Tran  
123 E. Amherst Avenue  
Louisville, KY 40214

**Applicant:** Same as owner

**Representative:** Nguyen Investment, LLC  
Thinh Nguyen  
4705 S. First Street  
Louisville, KY 40214

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 21—Dan Johnson**  
**Staff Case Manager: Latondra Yates, Planner II**  
**(Continued from March 2, 2015)**

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

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

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**MARCH 16, 2015**

**NEW BUSINESS:**

**CASE NO. 14VARIANCE1105**

**Agency Testimony:**

Staff Case Manager, Latondra Yates discussed the case summary, standard of review and staff analysis from the staff report. She said this case was originally heard on December 15, 2014 for the construction of a carport. It was then continued to February 2, 2015 to allow the applicant time to work with the adjoining property owner on an alternative plan. This case was then continued to the February 16, 2015 meeting to allow more time. The meeting was then continued to March 2, 2015 due to inclement weather. Ms. Yates said she doesn't believe the applicant is present today; and didn't discuss any changes with his neighbor. She said the adjacent property owner is still opposed to the request. Ms. Yates she did not receive a new plan or any new information.

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

No one.

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

No one.

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

No one.

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

No one.

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

No one.

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

No one.

**Deliberation:**

Chair Proffitt said the Board could continue this case, approve or deny. Member Bergmann said he feels they should deny it since the applicant is not present; and nothing new has been worked out to satisfy the next door neighbor. Member Liggin wanted to continue the case.



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**NEW BUSINESS:**

**CASE NO. 14VARIANCE1105**

**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 March 16, 2015 public hearing proceedings.**

**Variance—To allow a proposed carport to encroach into the required 2-foot side yard along the west property line:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a variance from Section 5.4.1.E.6 of the Land Development Code to allow a carport to encroach into the required 2' side yard to 1'6" or a 6" variance along the west property line; and

**WHEREAS**, the Board finds that the variance will adversely affect the public health, safety or welfare because of the close proximity of the carport to the adjacent property; and close proximity to the adjacent house may create an issue with privacy, overhang and water runoff; and

**WHEREAS**, the Board finds that the variance will alter the essential character of the general vicinity given the close proximity and depth of the carport to the property line; and

**WHEREAS**, the Board finds that the variance will cause a hazard or nuisance to the public because of the close proximity of the carport to the adjacent property owner will create privacy, overhang and water runoff issues; and

**WHEREAS**, the Board finds that the variance will allow an unreasonable circumvention of the zoning regulations because of the close proximity of the carport to the neighboring property; and

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**NEW BUSINESS:**

**CASE NO. 14VARIANCE1105**

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant, because the applicant could explore other options for placement of a carport;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the variance to allow a proposed carport to be 1'6" from the west side property line.

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

**NO: Member Liggin.**

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

**ABSTAINING: No one.**

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**MARCH 16, 2015**

**NEW BUSINESS:**

**CASE NO. 14DEVPLAN1154**

**Request:** Variances from the Land Development Code to not observe the required 0 ft. setbacks along Kenwood Drive and Laughlin Street; and to allow existing and proposed parking to encroach into the required 15 ft. setback along Kenwood Drive and Laughlin Street; and to allow proposed structures along Laughlin Street to exceed the maximum 25 ft. setback

**Project Name:** DeSales Athletic Field

**Location:** 425 W. Kenwood Drive

**Owner:** Roman Catholic Bishop of Louisville  
Brian B. Reynolds  
P.O. Box 1073  
Louisville, KY 40201

**Applicant:** St. Francis DeSales High School  
Douglas Strothman, President  
425 W. Kenwood Drive  
Louisville, KY 40214

**Representative:** Sabak, Wilson & Lingo  
Kelli Jones  
608 S. Third Street  
Louisville, KY 40202

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 21—Dan Johnson**  
**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

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**NEW BUSINESS:**

**CASE NO. 14DEVPLAN1154**

case file maintained at the Planning and Design Services offices located at 444 S. 5<sup>th</sup> 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 variances are for the construction of an athletic field, which includes lot consolidation, closures of a portion of Lyman and Northern Avenues and an unnamed alley for the renovation of the existing facilities and construction of a new football stadium, soccer field, baseball stadium and press box. Five waivers were approved at the Development Review Committee on February 4, 2015. Ms. Yates said she hasn't received any e-mails or phone calls regarding this proposal.

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

Kelli Jones.

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

Kelli Jones, the applicant's representative, explained all the upgrades to the school. Chair Proffitt had concerns regarding lighting. Ms. Jones said they weren't sure of the specifics of the lighting yet; but pointed out on the PowerPoint slide where she thought the lights might be installed. She said the lighting is not part of the request today.

**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.

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**NEW BUSINESS:**

**CASE NO. 14DEVPLAN1154**

**Deliberation:**

Member Tharp said they are putting a lot into a small area, but seems to be well received by the neighborhood. Chair Proffitt and Member Fishman said they want an exceptional lighting plan so it will not impact the area residents at night.

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**Variances--To allow the proposed student center to not observe the 0' setback along Kenwood Drive and Laughlin Street; and variances to allow proposed structures along Laughlin Street to exceed the maximum setback:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting variances from Section 5.5.1 of the Land Development Code to allow the proposed student center to not observe the 0' setback along Kenwood Drive and Laughlin Street; and variances of Table 5.2.2 of the Land Development Code to allow proposed structures along Laughlin Street to exceed the maximum 25 ft. setback; and

**WHEREAS**, the Board finds that the requested variances will not adversely affect the public health, safety or welfare because they will move the proposed expansion further away from adjacent residential; and

**WHEREAS**, the Board finds that the variances will not alter the essential character of the general vicinity because the site will continue to function as a school campus; and

**WHEREAS**, the Board finds that the variances will not cause a hazard or nuisance to the public because the plan has been reviewed for safety and

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**NEW BUSINESS:**

**CASE NO. 14DEVPLAN1154**

access, and has preliminary approval by the Transportation Planning Review Team; and because a condition of approval was approved that will provide sidewalks, and where waived, will provide a pedestrian connection into the campus; and

**WHEREAS**, the Board finds that the variances will not allow an unreasonable circumvention of the zoning regulations given the location of the existing school and additional structures; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship because of the location of the existing structure and need to connect it;

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

**The variances allow:**

1. The future student center to be 126 feet from Kenwood Drive.
2. The future student center to be 93 feet from Laughlin Street
3. The Visitor's field house to be 218 feet from Laughlin Street.
4. The Press Box to be 209 feet from Laughlin Street.

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

**NO: No one.**

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

**ABSTAINING: No one.**

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

**MARCH 16, 2015**

**NEW BUSINESS:**

**CASE NO. 14DEVPLAN1154**

**Variances—To allow existing and proposed parking to encroach into the required 15 ft. setbacks along Kenwood Drive and Laughlin Street:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting variances of Table 5.2.2 of the Land Development Code to allow existing and proposed parking to encroach into the required 15 ft. setbacks along Kenwood Drive and Laughlin Street to 0 feet; and

**WHEREAS**, the Board finds that the requested variances will not adversely affect the public health, safety or welfare because the proposed expansion will be screened from adjacent residential with the required screening; and

**WHEREAS**, the Board finds that the variances will not alter the essential character of the general vicinity because the site will continue to function as a school campus; and

**WHEREAS**, the Board finds that variances will not cause a hazard or nuisance to the public because the expansion is proposed in the same area as the existing school; and because it will not negatively impact the views from adjacent property owners; and

**WHEREAS**, the Board finds that the variances will not allow an unreasonable circumvention of the zoning regulations, given the location of the existing school and close proximity of the building additions; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship because of the location of the existing school and close proximity of the additions;

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

**MARCH 16, 2015**

**NEW BUSINESS:**

**CASE NO. 14DEVPLAN1154**

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

**The variances allow:**

1. Existing and proposed parking to be 0 feet from Kenwood Drive.
2. Existing and proposed parking to be 0 feet from Laughlin Street.

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

**NO: No one.**

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

**ABSTAINING: No one.**



**MINUTES OF THE MEETING  
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**MARCH 16, 2015**

**NEW BUSINESS:**

**CASE NO. 15VARIANCE1008**

**Request:** Variance from the Land Development Code to allow proposed signage to exceed the maximum height.

**Project Name:** Signage

**Location:** 4209 Outer Loop

**Owner:** Injury Care Center  
Prateek Gupta, Manager  
3955 Dixie Highway  
Louisville, KY 40216

**Applicant:** Same as Owner

**Representative:** Smart LED Signs  
Karla Hill  
P.O. Box 28  
Fisherville, KY 40023

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 24—Madonna Flood**

**Staff Case Manager: Matthew Doyle, Planner I**

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

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

**Agency Testimony:**

Staff Case Manager, Matt Doyle discussed the case summary, standard of review and staff analysis from the staff report. He said the applicant is requesting a variance for additional height because the business sets 3 feet

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**MARCH 16, 2015**

**NEW BUSINESS:**

**CASE NO. 15VARIANCE1008**

lower than Outer Loop. He said the sign facing the residential will not be LED, but reader board.

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

Tim Story, 2203 Wildflower Trail, Fisherville, KY 40023.

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

Tim Story, the applicant's representative, said the sign height will be appropriate for drivers since the grade of the land is much lower than Outer Loop.

**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 deliberations.

**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 March 16, 2015 public hearing proceedings.**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public

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**MARCH 16, 2015**

**NEW BUSINESS:**

**CASE NO. 15VARIANCE1008**

hearing that the applicant is requesting a variance from the Land Development Code, Section 8.3.3, Table 8.3.3 to allow proposed signage to exceed the maximum height; and

**WHEREAS**, the Board finds that the variance will not adversely affect the public health, safety or welfare since the sign will be located 10 feet from the front property line, no taller than 6 feet above street grade level, and will not obstruct views of vehicular and/or pedestrian traffic; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity since the site is along a major commercial corridor that has many establishments with freestanding signs; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public since the sign will be located 10 feet from the front property line; no taller than 6 feet above street grade level; and will not obstruct views of vehicular and/or pedestrian traffic; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations since the sign will be no taller than 6 feet above the street grade level; 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 since the existing grade where the proposed sign will be placed, is approximately 3 feet lower than 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, since the existing grade where the proposed sign will be, is approximately 3 feet lower than the street; and

**WHEREAS**, the Board finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought due the sign area being 3 feet lower than the street;

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**MARCH 16, 2015**

**NEW BUSINESS:**

**CASE NO. 15VARIANCE1008**

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow a freestanding sign to be 8.9' or 107" tall along Outer Loop.

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

**NO: No one.**

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

**ABSTAINING: No one.**

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

**MARCH 16, 2015**

**NEW BUSINESS:**

**CASE NO. 15DEVPLAN1009**

**Request:** Variance from the Land Development Code (LDC) to allow the proposed building to exceed the maximum front yard setback; three LDC waivers and a Category 3 Plan.

**Project Name:** City BBQ

**Location:** 329 Whittington Parkway

**Owner:** Hoosier Que, LLC  
Donald Fiebel  
6175 Emerald Parkway  
Dublin, OH 43016

**Applicant:** Same as Owner

**Representative:** Sabak, Wilson & Lingo, Inc.  
Kelli Jones  
608 S. Third Street  
Louisville, KY 40202

**Jurisdiction:** Hurstbourne

**COUNCIL DISTRICT 18—Marilyn Parker**

**Staff Case Manager: Christopher Brown, Planner II**

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

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

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**MARCH 16, 2015**

**NEW BUSINESS:**

**CASE NO. 15DEVPLAN1009**

**Agency Testimony:**

Staff Case Manager, Chris Brown discussed the case summary, standard of review and staff analysis from the staff report. He said the applicant wants to remove the existing bank and construct a 3,600 sq. ft. restaurant with a 1,400 sq. ft. outdoor patio. He said the applicant will be meeting the 30 ft. required parkway buffer along Hurstbourne Lane. Chair Proffitt said he would like to see the renderings.

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

Kelli Jones.

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

Kelli Jones, the applicant's representative, explained the variance and waiver requests including a Category 3 Plan. She submitted renderings showing each side of the building; and said that they are still working on a landscape plan. She said there will not be a drive-up window to the restaurant. Member Jarboe questioned the signage. Ms. Jones pointed out on the PowerPoint picture where the free standing sign would be located.

**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 deliberations.

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LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**MARCH 16, 2015**

**NEW BUSINESS:**

**CASE NO. 15DEVPLAN1009**

**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 March 16, 2015 public hearing proceedings.**

**Variance—To allow a proposed building to exceed the maximum 15' front yard setback:**

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 Chapter 5.2.4.C.3.a of the 2006 Land Development Code to allow the proposed building to exceed the maximum 15' front yard setback; and

**WHEREAS**, the Board finds the requested variance will not adversely affect the public health, safety or welfare since the additional setback allows proper maneuvering on the site utilizing existing access and allows for the creation of the required 30' parkway buffer along Hurstbourne Parkway; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity since it will allow the addition of the parkway buffer and berm following the pattern along South Hurstbourne Parkway with a circulation pattern similar to other uses along the corridor; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public since the additional setback allows proper maneuvering on the site utilizing existing access and allows for the creation of the required 30' parkway buffer along Hurstbourne Parkway; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations since it will allow landscaping requirements to be met while maintaining the existing access and needed parking; and

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**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 since the area is located in a more suburban style form and the site was previously developed under those conditions; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by requiring them to maintain a 15' maximum and also provide a 30' parkway buffer and berm than cannot both be met along the street frontage; and

**WHEREAS**, the Board finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought, since the property existed in its current state prior to ownership with the extended setback;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow the proposed building to be 58 feet from the front property line.

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

**NO: No one.**

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

**ABSTAINING: No one.**

**Waiver #1—To allow the principal building entrance to be located on the side of the building;**

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, the PowerPoint presentation(s) and the evidence and testimony submitted at the public hearing that the applicant is requesting a waiver from Chapter 5.5.1.A.1.A of the 2006 Land Development Code to allow the principal building entrance to be located on the side of the building; and



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**WHEREAS**, the Board finds that the requested waiver will not adversely affect adjacent property owners since it will follow a similar pattern of construction of other structures within the area and access will be provided from the street frontage to the entrance; and

**WHEREAS**, the Board finds that the waiver will not violate specific guidelines of Cornerstone 2020 because Guideline 2, policy 12 calls to encourage large developments in activity centers to be compact, multi-purpose centers designed around a central feature such as a public square or plaza or landscaped element; and because Guideline 3, policy 1 calls for new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district; and since the entrance location will be similar as the existing built pattern in the area; and

**WHEREAS**, the Board finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since it allows the proper circulation on the site for vehicular and pedestrian access; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship by requiring the principal entrance along Hurstbourne Parkway setback further from the street to accommodate the required parkway buffer;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waiver to allow the principal building entrance to be located on the side of the building.

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

**NO: No one.**

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

**ABSTAINING: No one.**

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**NEW BUSINESS:**

**CASE NO. 15DEVPLAN1009**

**Waivers #2 and #3—To allow an existing easement to overlap a portion of the parkway buffer by more than 50%; and to allow more than 120' between Interior Landscape Areas (ILA's):**

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, the PowerPoint presentation(s) and the evidence and testimony submitted at the public hearing that the applicant is requesting a waiver from Chapter 10.2.4.B/10.3.5 of the 2006 Land Development Code to allow an existing easement to overlap a portion of the parkway buffer by more than 50%; and a waiver from Chapter 10.2.11.B of the 2006 Land Development Code to allow more than 120' between ILA's; and

**WHEREAS**, the requested waivers will not adversely affect adjacent property owners since all required plantings and screening will be provided on the site; and

**WHEREAS**, the Board finds that the waivers will not violate specific guidelines of Cornerstone 2020, because Guideline 3, Policy 9 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate; and because Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity and density, and to mitigate 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 smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances; and because Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered; and because Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban and rural areas; and because 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

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incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants; and since the easement overlap exceeds the 120' ILA distance rule will be mitigated by providing the required buffering with screening and plantings throughout the property; and

**WHEREAS**, the Board finds that the extent of the waivers of the regulation is the minimum necessary to afford relief to the applicant since it will allow the required parking to be met on the site while providing the required plantings; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by eliminating parking spaces that would place the property below the minimum number of required parking spaces;

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

**The waivers allow:**

1. The existing easement to overlap a portion of the parkway buffer by more than 50%.
2. More than 120' between interior landscape areas.

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

**NO: No one.**

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

**ABSTAINING: No one.**

**Category 3 Plan:**

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

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

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**NEW BUSINESS:**

**CASE NO. 15DEVPLAN1009**

submitted at the public hearing, that the applicant is requesting a Category 3 Review for the construction of a proposed 3,600 sq. ft. restaurant with a 1,400 sq. ft. outdoor patio; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Board does hereby **APPROVE** the Category 3 plan to construct a 3,600 sq. ft. restaurant with a 1,400 sq. ft. outdoor patio.

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

**NO: No one.**

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

**ABSTAINING: No one.**

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

**MARCH 16, 2015**

**NEW BUSINESS:**

**CASE NO. 15VARIANCE1007**

**Request:** Variance from the 2001 Development Code to allow existing parking to encroach into the required front yard.

**Project Name:** 157 Thierman Lane

**Location:** 157 Thierman Lane

**Owner:** JAG Services, LLC  
Joseph A. Gottbrath  
157 Thierman Lane  
Louisville, KY 40207

**Applicant:** Same as Owner

**Representative:** No one

**Jurisdiction:** St. Matthews

**COUNCIL DISTRICT 9—Bill Hollander**

**Staff Case Manager: Matthew Doyle, Planner I**

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

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

**Agency Testimony:**

Staff Case Manager, Matt Doyle discussed the case summary, standard of review and staff analysis from the staff report. He said the applicant stated that the parking has been there since approximately 1990; and that the variance is adequately justified since the parking doesn't obstruct views.

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**NEW BUSINESS:**

**CASE NO. 15VARIANCE1007**

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

Joe Gottbrath.

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

Joe Gottbrath, the owner, said the parking is used for people to drop off payments; and that the pad has been there since 1990.

**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 March 16, 2015 public hearing proceedings.**

**Variance—To allow existing parking to encroach into the required front yard:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a variance from the 2001 Development

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**NEW BUSINESS:**

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Code, Section 5.2, to allow existing parking to encroach into the required front yard; and

**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare since the parking does not obstruct views of vehicular traffic and maintains an adequate distance from pedestrian traffic on the sidewalk; and

**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity since the area has a mix of uses including several establishments on the street that have parking in the front; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public since the parking does not obstruct views of vehicular traffic, maintains an adequate distance from pedestrian traffic on the sidewalk, and the area has a mix of uses including several establishments on the street have parking in the front; 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 since the parking does not obstruct views of vehicular traffic; maintains adequate distance from pedestrian traffic on the sidewalk; and because the area has a mix of uses including several establishments on the street that have parking in the front;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow the existing parking to be 15 feet from the front property line.

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

**NO: No one.**

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

**ABSTAINING: No one.**

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**MARCH 16, 2015**

**NEW BUSINESS:**

**CASE NO. 15VARIANCE1005**

**Request:** Variance from the Land Development Code to allow the proposed parking and vehicular maneuvering to encroach into the required 25' setback along the northern perimeter; building design waivers and a landscape waiver.

**Project Name:** Dollar General

**Location:** 13725 & 13705 Dixie Highway

**Owner:** Susan Cox  
2768 North Highland Avenue  
Jackson, TN 38305

**Applicant:** Same as Owner

**Attorney:** Wyatt, Tarrant & Combs, LLP  
Cliff Ashburner, Esq.  
500 W. Jefferson Street, Suite 2800  
Louisville, KY 40202

**Representative:** Arnold Consulting Engineering  
Brandy Zackery  
P.O. Box 1338  
Bowling Green, KY 42101

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 14—Cindi Fowler**

**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



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case file maintained at the Planning and Design Services offices located at 444 S. 5<sup>th</sup> Street).

**Agency Testimony:**

Staff Case Manager, Sherie' Long discussed the case summary, standard of review and staff analysis from the staff report. She said the building design requirements are not being met, but that the applicant is working with staff's architect to change this; and that the second design waiver in the staff report is no longer needed. She said the technical review items will need to be addressed.

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

Cliff Ashburner, Esq.

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

Cliff Ashburner, the applicant's attorney, submitted information into the record and presented a PowerPoint presentation to the Board. He said Transportation Planning has asked them to install another access point to the south. He said he's been working with staff's architect, and showed the revised elevations to the Board. Mr. Ashburner explained that the sides of the building would be metal. Some of the Board members felt that Dollar General should quit using metal exteriors and upgrade to masonry.

**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 asked Mr. Ashburner if he could call his client to see if she would agree to use masonry on all sides of the building.

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LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**MARCH 16, 2015**

**NEW BUSINESS:**

**CASE NO. 15VARIANCE1005**

**Public Hearing:**

Mr. Ashburner spoke with his client who agreed to extend the masonry from the front facade around each side 10 feet. He said he thinks this is fair since his client is providing additional landscaping along the sides of the building.

**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 March 16, 2015 public hearing proceedings.**

**Variance—To allow parking and vehicular maneuvering to encroach into the required 25 ft. setback along the northern perimeter:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a variance from the Land Development Code, Section 5.3.2.C.2.b, to allow parking and vehicular maneuvering to be 0 feet from the north property line; and

**WHEREAS**, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the parking and vehicular maneuvering area is necessary to allow future access to the commercial property to the north; and because the 25 ft. setback requirement is necessary due to the northern property currently being used as residential even though it is zoned for commercial use; and because the new development is providing buffer plantings between the properties to lessen the impact of the new commercial development on the adjacent property; and

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**MARCH 16, 2015**

**NEW BUSINESS:**

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**WHEREAS**, the Board finds that the variance will not alter the essential character of the general vicinity because the area is currently a mixture of residential, commercial and industrial uses; and because the adjacent property to the north is being used as a single family residence but is zoned commercial, indicating that in the future this residential property could be a commercial development; and

**WHEREAS**, the Board finds that the variance will not cause a hazard or nuisance to the public because the location of the parking and maneuvering areas will not affect the ability to develop the property to the north; and because buffer plantings are proposed along the remainder of the northern perimeter where the pavement is not being proposed; and

**WHEREAS**, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the pavement is being required by Public Works to allow access to future development on the adjacent northern property; and because the 25 ft. setback requirement would be eliminated if and when the northern property develops as a commercial use; and

**WHEREAS**, the Board finds that the requested variance arises from special circumstances because the adjacent property is zoned commercial but is being used as residential; therefore, the 25 ft. setback is required to reduce the impact of the commercial development on the single family use; and if the northern property develops commercially, then the setback requirement would be eliminated; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because two parking spaces would be lost and the access to the northern property would be eliminated; and

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow parking and vehicular maneuvering to be 0 feet from the north property line.

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

**NO: No one.**

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

**ABSTAINING: No one.**

**Waivers #1—To not provide the required display windows and windows affording views into the business along the Dixie Highway frontage; and Waiver #3—To not provide the required 50% of the street level wall surface consisting of clear windows and doors along Dixie Highway frontage:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the applicant's justification; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a waiver from the Land Development Code, Section 5.5.2.A.1, to not provide the required display windows where windows afford views into the business along the Dixie Highway frontage; and a waiver from the Land Development Code to not provide the required 50% of the street level wall surface consisting of clear windows and doors along Dixie Highway frontage; and

**WHEREAS**, the Board finds that the requested waivers will not adversely affect adjoining property owners because the proposed Dollar General store will provide a central entrance and vestibule which will be all glass and will provide windows at a height that will allow for inventory to be stored below; and because the area surrounding the property has virtually no sidewalks, creating an auto-centric corridor where the elimination of some glazing will not have as negative an impact as it might in a more pedestrian friendly area; and because the applicant has agreed to a condition of approval to construct the retail building to be designed to appear substantially the same as the rendering provided by the applicant at the March 16, 2015 Board of Zoning Adjustment hearing, except the applicant shall extend the masonry proposed on the front façade, a distance of 10' from the front façade on each side of the building; and

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**WHEREAS**, the Board finds that the waivers will not violate the Comprehensive Plan for the reasons stated above and because the applicant is providing an extensive amount of landscaping along Dixie Highway to make the overall site attractive; and because the applicant agreed to a condition of approval to construct the retail building to be designed to appear substantially the same as the rendering provided by the applicant at the March 16, 2015 Board of Zoning Adjustment hearing, except the applicant shall extend the masonry proposed on the front façade, a distance of 10' from the front façade on each side of the building; and

**WHEREAS**, the Board finds that the extent of the waivers are the minimum necessary to afford relief to the applicant because the applicant is providing glazing where it is appropriate and where it can be accommodated; and because the Dollar General stores use interior wall space for inventory storage, and the glazing will be above the inventory; and because the applicant agreed to a condition of approval to construct the retail building to be designed to appear substantially the same as the rendering provided by the applicant at the March 16, 2015 Board of Zoning Adjustment hearing, except the applicant shall extend the masonry proposed on the front façade, a distance of 10' from the front façade on each side of the building; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant in this case because the thought behind the minimum glazing requirement is to provide more pedestrian friendly stores with a high level of design facing the street; and because the use of some glazing and landscaping will create an attractive façade facing Dixie Highway, but the design will match the context of the area, a major arterial roadway with little pedestrian infrastructure or traffic; and because the applicant agreed to a condition of approval to construct the retail building to be designed to appear substantially the same as the rendering provided by the applicant at the March 16, 2015 Board of Zoning Adjustment hearing, except the applicant shall extend the masonry proposed on the front façade, a distance of 10' from the front façade on each side of the building;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waivers **ON CONDITION** that the applicant construct the retail building to be designed to appear substantially the same as the rendering at the March 16, 2015 Board of Zoning Adjustment hearing, except the applicant shall

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extend the masonry proposed on the front façade, a distance of 10' from the front façade on each side of the building.

**The waivers allow:**

1. To not provide the required display windows and windows affording views into the business along Dixie Highway.
2. To not provide the required 50% of the street level wall surface consisting of clear windows and doors along the Dixie Highway frontage.

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

**NO: No one.**

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

**ABSTAINING: No one.**

**Waiver #4—To allow more than 120 ft. maximum distance between Interior Landscape Areas (ILA's):**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the applicant's justification; the site plan; the PowerPoint presentations, testimony and discussion at the public hearing that the applicant is requesting a waiver from the Land Development Code, Section 10.2.12, to allow more than 120 foot maximum distance between ILA's; and

**WHEREAS**, the Board finds that the requested waiver will not adversely affect adjacent property owners since the applicant is reducing the heat effects of the proposed pavement by using reflective concrete instead of asphalt; therefore, one of the intents of the ILA's is being met; and because ILA's are intended to breakup large expanses of impervious pavement and allow a greater distribution of tree canopy, which provides other benefits including a reduction of runoff; and because the applicant is proposing a detention basin to capture the site runoff; therefore, the adjacent properties will not be affected by the additional storm

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water generated by the additional pavement and the reduction of one interior landscape island; and

**WHEREAS**, the Board finds that the waiver will not violate specific guidelines of Cornerstone 2020, Guideline 13, Policy 5, which calls for standards to ensure the creation and/or preservation of tree canopy as a valuable community resource; and because the purpose of the interior landscape areas is to break up large impervious areas and allow for a greater distribution of tree canopy coverage; and because this site does not contain any existing interior tree canopy, there are no trees or tree canopy to preserve; and

**WHEREAS**, the Board finds that the extent of the waiver is the minimum necessary to afford relief to the applicant since all but one interior landscape island is being provided; and because the tree canopy and perimeter tree planting requirements are all being met for all other landscape and buffer requirements; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship, considering the total number of trees being provided on the site around the perimeter is exceeding the minimum requirements for the tree canopy and overall tree planting; in addition, the applicant will use concrete pavement to reduce heat which is also in excess of the minimum;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waiver to allow more than 120 foot maximum distance between Interior Landscape Areas.

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

**NO: No one.**

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

**ABSTAINING: No one.**

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**Waiver #5—To allow vehicular parking and maneuvering to encroach into the required 25' setback and 5' LBA along the northern perimeter:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the applicant's justification; the site plan; the PowerPoint presentations, testimony and discussion at the public hearing that the applicant is requesting waiver from the Land Development Code, Section 5.3.2.C.2.b and 10.2.10, to allow vehicular parking and maneuvering to encroach into the required 25' setback and 5' LBA along the northern perimeter; and

**WHEREAS**, the Board finds that the requested waiver will not adversely affect adjacent property owners since the applicant is providing extensive perimeter landscape plantings which either meet or exceed the minimum requirements; and because the proposed encroachment of the vehicular parking and maneuvering is necessary to provide access to the adjacent property for future development, which benefits the adjacent property owner; and

**WHEREAS**, the Board finds that the waiver will not violate specific guidelines of Cornerstone 2020, because Guideline 3, policy 9, calls for the protection of the character of the residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate; and because Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate 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 smells, dust and dirt, litter, junk, outdoor storage and visual nuisances; and also because Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered; and because Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban and rural areas; and because Guideline 13, Policy 6 call for screening and buffering to mitigate adjacent incompatible uses;



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and because the intent of landscape buffer areas are 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 air borne and water borne pollutants; and because the encroachment of the vehicular maneuvering area is necessary to allow future access to the adjacent property; however, the applicant is providing plantings which are in excess of the required tree and shrub plantings for the perimeter buffers; plus the tree canopy requirements are being fulfilled for the site; and

**WHEREAS**, the Board finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the encroachment of the vehicular maneuvering area is the minimum necessary to allow the required access to the adjacent property for future development; and because the required tree and shrub plantings are being provided as required within the perimeter buffer except where the pavement is encroaching; and

**WHEREAS**, the Board finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements for the tree canopy and overall tree planting for the subject site; in addition, to using concrete pavement to reduce heat is also in excess of the minimum;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waiver to allow vehicular parking, and maneuvering to encroach into the required 25' setback and 5' LBA along the north property line.

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

**NO: No one.**

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

**ABSTAINING: No one.**

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**NEW BUSINESS:**

**CASE NO. 15VARIANCE1010**

**Request:** Variance from the Land Development Code to allow an existing fence to exceed the maximum height.

**Project Name:** Existing fence

**Location:** 609 Winyan Lane

**Owners:** Adam & Tara Green  
609 Winyan Lane  
Louisville, KY 40223

**Applicants:** Same as owners

**Representative:** No one.

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 18—Marilyn Parker**  
**Staff Case Manager: Sherie' Long**

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

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

**Agency Testimony:**

Staff Case Manager, Sherie' Long discussed the case summary, standard of review and staff analysis from the staff report. She said the applicant received a Notice of Violation from Codes and Regulations in January concerning the height of the existing fence located in the 25 foot setback along the Elsmere Circle frontage. She said the applicant received a letter from the homeowners association who stated that they didn't see any problem with regard to the deed

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restrictions, but did suggest doing a survey and checking with the city to see if a permit was needed.

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

Adam Green.

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

Adam Green, the owner, said he received approval from the neighborhood association to build a 6 ft. tall fence (requirement 4 ft. tall) and then hired a contractor to build the fence and take care of permit process if necessary. The contractor told him he didn't need a permit unless it was over 8 feet tall. Mr. Green said the adjacent property owners are in support; and said he thinks it will look worse if he cuts it down to 4 feet.

**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:**

Brett Garvey, 814 FoxFire Drive, Louisville, KY 40223.

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

Brett Garvey said the deed restrictions would not allow the height, and was told this 22 years ago. He said there is also a bit of dysfunction with the homeowners association and the person who wrote the letter to Mr. Green was told not to do this anymore. Mr. Garvey said he has spoken with Mr. Green and said he would help him out financially to reduce the size of the fence. Mr. Garvey said this fence will set a precedent in the neighborhood, where others will think it's acceptable. Chair Proffitt said the owner can have the fence where it is at 4 feet tall, and is the Board's decision to determine if the 6 ft. tall height is acceptable.

**Rebuttal:**

Chair Proffitt suggested scalloping the fence, which he thinks would look nice. Mr. Green said he has a pool and if he moved the fence back, would be out of compliance.

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**Deliberation:**

The Board decided to continue this case to allow Mr. Green, Mr. Garvey and the homeowners association to come up with an agreement or compromise if possible.

**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 March 16, 2015 public hearing proceedings.**

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

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** this case to **APRIL 6, 2015** (first under new business) to allow the applicant, Mr. Garvey and the homeowner's association to come up with an agreement or compromise if possible.

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

**NO: No one.**

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

**ABSTAINING: No one.**

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**MARCH 16, 2015**

**NEW BUSINESS:**

**CASE NO. 14CUP1032**

**Request:** Conditional Use Permit to allow a potentially hazardous or nuisance use (Reagent Room) in a PEC zoning district.

**Project Name:** Eurofins Headquarters

**Location:** 12701 Plantside Drive

**Owner:** Louisville Real Estate, Inc.  
2211 Seminole Drive  
Birmingham, AL 35805

**Applicant:** WS Construction  
Mark Schentrup  
P.O. Box 436  
Versailles, KY 40383

**Representative:** Luckett & Farley  
Phil Gambrell & Geoff Meehan  
737 South Third Street  
Louisville, KY 40202

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 20—Stuart Benson**

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

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

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

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**Agency Testimony:**

Staff case manager, Jon Crumbie discussed the case summary, standard of review and staff analysis from the staff report. He said the applicant is proposing to construct a 32,942 SF office and manufacturing building on a vacant site. He said a revised plan was approved, so the project is under construction. Mr. Crumbie said the applicant will need to discuss Items B and C in the staff report on page 3.

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

Geoff Meehan.

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

Geoff Meehan, the applicant's representative, said the people at the neighborhood meeting wanted a list of bulk chemicals to be stored in the Reagent Room, which he supplied and is on page 16 in the staff report. Member Fishman questioned the safety of transporting and dispensing the chemicals. Mr. Meehan said the chemicals are in storage containers and meets Kentucky Department of Transportation guidelines. He said the chemicals are dispensed in closed containers and will never enter the atmosphere.

**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:**

Jon Baker, the Board's legal counsel, asked about the landscape waivers in the staff report. Mr. Crumbie said they were already approved at a previous meeting.

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**Conditional Use Permit to allow a potentially hazardous or nuisance use in a PEC zoning district:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report including the standard of review, the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a Conditional Use Permit to allow a potentially hazardous or nuisance use (Reagent Room) in a PEC zoning district; and

**WHEREAS**, the Board finds that the proposal meets all applicable polices of the Comprehensive Plan because lighting will be compliant with the Land Development Code; and the appropriate waivers have been approved; and

**WHEREAS**, the Board finds that the proposal is compatible with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting and appearance because the subject site is located in a Suburban Workplace Form District that has a mix of Office/Warehouse uses which have similar scale, intensity etc.; and

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

**WHEREAS**, the Board finds that the proposal complies with the specific standards required to obtain the conditional use permit as listed on pages 9 and 10 of the staff report;

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**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow a potentially hazardous or nuisance use (Reagent Room) in a PEC zoning district on the site **SUBJECT** to the following Conditions of Approval:

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

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

**NO: No one.**

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

**ABSTAINING:       No one.**



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**NEW BUSINESS:**

**CASE NO. 15APPEAL1001**

**Request:** An Appeal of a Notice of Refusal from Planning & Design concerning the change from one non-conforming use (restaurant/bar with a second floor apartment and a separate dwelling) to another non-conforming use (duplex and a separate single family dwelling) in an R-5 zoning district.

**Location:** 1919 South Preston Street

**Appellant:** Brandon & Ashley Quinlan  
2304 Village Drive  
Louisville, KY 40205

**Owner:** Vito's Properties, LLC

**Jurisdiction:** Louisville Metro

**COUNCIL DISTRICT 15—Marianne Butler**

**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. 5<sup>th</sup> Street).

On March 16, 2015, 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, said the property contains the restaurant/bar on the first floor with an apartment on the second floor. There is also a single family dwelling in the rear that is boarded up, and an Order to Demolish was

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issued on December 15, 1993, which was never accomplished. He said from staff's research, that the 3 lots were consolidated in September, 2003. The applicant would like to convert the bar/restaurant into another apartment along with the single family boarded up building.

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

Brandon Quinlan.

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

Brandon Quinlan, said the property has been transferred twice, and he will be the new owner in 10 days. He said the demolition never occurred, but would demolish if the Board would allow him to rebuild within a couple of years. Mr. Quinlan then asked if he could have one year to demolish it.

Jon Baker, the Board's legal counsel, said it is not up to the Board, since the structure was already ordered to be demolished and could fall apart tomorrow.

Mr. Quinlan then asked if he could convert the garage into an apartment. Mr. Baker said the garage is just an accessory structure to the restaurant/bar and apartment.

**Deliberation:**

Chair Proffitt said the Board does not have to consider the single family dwelling or the garage as part of the deliberations.

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**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 March 16, 2015 public hearing proceedings.**

**Did Abandonment take place for the single family dwelling; and do non-conforming use rights exist for the restaurant/bar and upstairs apartment:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report, the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that this appeal concerns a Notice of Refusal from Planning & Design concerning the change from one non-conforming use (restaurant/bar and second floor apartment) to another non-conforming use (duplex) in an R-5 zoning district; and

**WHEREAS**, the Board finds that abandonment did take place for the single family dwelling at 1915 R-South Preston Street because Inspections, Permits & Licenses issued an Order to Demolish on December 15, 1993 because the structure was uninhabitable; also because this demolition never transpired and a subsequent owner consolidated the 3 of the lots in September 2003; and because 1971 is the base year for the establishment of non-conforming use rights, since the property was in the former City of Louisville; and

**WHEREAS**, the Board finds that non-conforming rights do exist for the restaurant/bar and second floor apartment since these uses have existed per the City Directory from 1971 to present day;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **ACKNOWLEDGE** that non-conforming rights exist for the restaurant/bar and second floor apartment.

**The vote was as follows:**

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

**NO: No one.**

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

**ABSTAINING: No one.**

**Is the change in one non-conforming use (restaurant/bar and 2<sup>nd</sup> story apartment to another non-conforming use (duplex) in the same or more restrictive classification; and is the change from one non-conforming use (restaurant/bar and 2<sup>nd</sup> story apartment to another non-conforming use (duplex) no more odious or offensive to surrounding properties than the first non-conforming use:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report, the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that this appeal concerns a Notice of Refusal from Planning & Design concerning the change from one non-conforming use (restaurant/bar and second floor apartment) to another non-conforming use (duplex) in an R-5 zoning district; and

**WHEREAS**, the Board finds that the change from one non-conforming use (restaurant/bar and 2<sup>nd</sup> floor apartment) to another non-conforming use (duplex) is a less restrictive classification because a restaurant is permitted within a C-N, Neighborhood Commercial District; and a bar is permitted within a C-2 District, both being less restrictive than R-5, Residential Multi-Family District and R-6, Residential Multi-Family District which allows multi-family residential; and

**WHEREAS**, the Board finds that the change from one non-conforming use (restaurant/bar and 2<sup>nd</sup> floor apartment) to another non-conforming use (duplex) no more odious or offensive to surrounding properties because a duplex will create less traffic, noise and other nuisances to area residents;

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the change from one non-conforming use (restaurant/bar and second floor apartment to another (duplex); and

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OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**MARCH 16, 2015**

**NEW BUSINESS:**

**CASE NO. 15APPEAL1001**

**BE IT FURTHER RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Appeal only pertaining to the restaurant/bar and second floor apartment.

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

**NO: No one.**

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

**ABSTAINING: No one.**

**Was the Notice of Refusal issued by Planning & Design Services proper:**

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

**WHEREAS**, the Board finds from the file of this case, the staff report, the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that this appeal concerns a Notice of Refusal from Planning & Design Services concerning the change from one non-conforming use (restaurant/bar and second floor apartment) to another non-conforming use (duplex) in an R-5 zoning district; and

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby find that the Notice of Refusal issued by Planning & Design Services was **PROPER**.

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

**NO: No one.**


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


**ABSTAINING: No one.**

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

MARCH 16, 2015

The meeting adjourned at 5:05 p.m.

  
\_\_\_\_\_  
CHAIRPERSON

  
\_\_\_\_\_  
SECRETARY