

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

September 12, 2016

A meeting of the Louisville Metro Board of Zoning Adjustment was held on September 12, 2016 at 8:30 a.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Mike Allendorf, Chair
Betty Jarboe, Vice Chair
Paul Bergmann
Lula Howard

Members Absent:

Rosalind Fishman, Secretary
Lester Turner
Dean Tharp

Staff Members Present:

Steve Hendrix, Planning & Design Supervisor
Brian Mabry, Planning & Design Supervisor
Joe Haberman, Planning & Design Manager
Jon Crumbie, Planning & Design Coordinator
Ross Allen, Planner I
Laura Mattingly, Planner I
Jon Baker, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

August 29, 2016 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:03:50 On a motion by Member Howard, seconded by Vice Chair Jarboe, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on August 29, 2016.

The vote was as follows:

Yes: Members Howard, Bergmann, and Vice Chair Jarboe

Abstain: Chair Allendorf

Absent: Members Fishman, Turner, and Tharp

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BUSINESS SESSION

CASE NUMBER 16PRESENT1000

Request:	Presentation on Short Term Rentals
Project Name:	Short Term Rentals LDC Text Amendment
Location:	Multiple
Owner:	Multiple
Applicant:	Louisville Metro
Representative:	Louisville Metro
Jurisdiction:	Louisville Metro
Council District:	Multiple
Case Manager:	Joe Haberman, Planning and Design Manager

NOTE: Due to technical difficulty involving the projector equipment, this training was not presented.

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

00:04:41 NOTE: Member Bergmann stated he would have to leave at 11:15 today, so the Board will lose quorum at that time.

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CASE NUMBER 16VARIANCE1035

Request:	Proposed Vehicle Use Area to encroach into streamside buffer
Project Name:	Algood Manufacturing
Location:	10611 Freeport Drive
Owner:	Cecil C Barnette Family LLC
Applicant:	Cecil C Barnette Family LLC
Representative:	Ashley Bartley, Qk4
Jurisdiction:	Louisville Metro
Council District:	12 – Rick Blackwell
Case Manager:	Laura Mattingly, Planner I

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

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

Agency Testimony:

00:06:33 Laura Mattingly presented the case and responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Ashley Bartley, QK4, 1046 East Chestnut Street, Louisville, KY 40204

Summary of testimony of those in favor:

00:17:11 Ashley Bartley spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

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00:30:01 Board Members' deliberation

00:34:35 Laura Mattingly stated DRC did approve this on August 31st, and this is the same plan. Ms. Mattingly responded to further questions from the Board Members (see recording for detailed presentation).

00:39:05 Laura Mattingly responded to questions from the Board Members regarding the flood plain area (see recording for detailed presentation).

00:45:10 Ashley Bartley responded to questions from the Board Members in regard to the bio swale (see recording for detailed presentation).

00:47:12 Board Members' deliberation

00:48:58 On a motion by Vice Chair Jarboe, seconded by Member Bergmann, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment in Case Number 16VARIANCE1035 does hereby **CONTINUE** the case to the October 3, 2016 Board of Zoning Adjustment meeting to allow officials from Metropolitan Sewer District to explain the rationale for mitigating the flood plain that they will either be required to do or have done when plans are submitted, as well as further information from QK4 if they consult with MSD before October 3rd, the Board would accept that information regarding the bio swale.

The vote was as follows:

Yes: Member Bergmann, Vice Chair Jarboe, and Chair Allendorf

No: Member Howard

Absent: Members Fishman, Turner, and Tharp

00:51:18 NOTE: Legal Counsel, Jon Baker, stated he would like to make a comment regarding the dockets moving forward, using this case as an example; if the Board Members could take some time when they receive their packets to go through them just to see if there's an issue so we could ask for someone to be here (from MSD, etc.) to give some evidence to put into the record that explains the questions we may have, that way we wouldn't have to wait three more weeks. Mr. Baker stated that, depending on the cases that we get, it could be APCD or another expert where the Board relies on those agencies for their

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information on how they review plans. Mr. Baker stated the applicant shouldn't have to wait on us when we could probably get people here to explain in the public hearing for everyone to hear (see recording for detailed presentation).

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CASE NUMBER 16VARIANCE1063

Request: Variance from the Land Development Code section 8.3.3.A.10.d to allow a proposed sign to exceed the area and height as found in table 8.3.2 for the Suburban Workplace Form District AND a waiver from LDC section 8.3.3.B.3 to allow more than one sign on a lot fronting only one street.

Project Name: Holiday Inn Sign
Location: 1921 Bishop Lane
Owner: Sumeet Seth – Newburg Hospitality LLC.
Applicant: Shannon Childress – Newburg hospitality LLC.
Representative: Jeffrey Lamb – Commonwealth Sign Company
Jurisdiction: Louisville Metro
Council District: 10 – Pat Mulvihill
Case Manager: Ross Allen, Planner I

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

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

Agency Testimony:

00:55:10 Ross Allen presented the case (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jeff Lamb, 1824 Berry Blvd., Louisville, KY

Summary of testimony of those in favor:

01:00:59 Jeff Lamb spoke on behalf of the applicant in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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01:03:31 Ross Allen stated there's no way for him to know if the sign with the additional increase in width would encroach into the public right of way, so perhaps there could be a condition of approval, but at this point it is undetermined if the sign would actually be in the public right of way. Mr. Allen responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

01:05:59 Board Members' deliberation

01:07:04 Ross Allen responded to questions from the Board Members (see recording for detailed presentation).

01:09:47 On a motion by Member Howard, seconded by Member Bergmann, the following resolution was adopted:

Variance from the Land Development Code Section 8.3.3.A.10.d to allow a freestanding sign to exceed the height and area as allowed from table 8.3.2 for the Suburban Workplace Form District:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the replacement of the existing sign with a slightly larger sign that is adjacent to interstate 264 and has been in place for several years prior to the issuance of permit # SI985610 has had no adverse effects upon the public, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the existing sign has been in place for several years prior to the request for the larger sign box, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the proposed replacement sign box will be located where the existing structural poles are already located, and

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WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the existing sign box and poles have been present prior to the variance request, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the sign has been placed in a location allowing visibility to motorist along Interstate 264. Furthermore, the interstate ramp is at a greater elevation than the subject property requiring additional height for sign visibility, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since the owner purchased the property with the intent of utilizing the signage along interstate 264, strict application of the regulation may limit the advertising of the hotel, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the sign was in place prior to the requested variance and the slight square footage increase in the sign box will allow the applicant to meet standard specifications for the brand requirements, and

WHEREAS, the Board further finds that the sign in question has been in existence for many years and has not posed any threat throughout its lifespan. Allowing the variance would cause no adverse effects to the public health, safety or welfare, and

WHEREAS, the Board further finds that due to the sign's long tenure along Interstate 264 it has become a landmark of sorts. To allow it to stay would be seamless and would have no negative impacts to the character of the community, and

WHEREAS, the Board further finds that the sign is internally illuminated and structurally sound. In fact, included in the plans for sign renovation is the addition of support elements that intend to make the sign safer and more secure than it already is, and

WHEREAS, the Board further finds that this sign has been in place for many years. There is no ill intent to circumvent or disregard the zoning regulations, but rather an effort to improve the sign in a good-natured and appropriate way, and

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WHEREAS, the Board further finds that the sign was placed so that motorists on Interstate 264 can easily see it. Without this variance, that will not be the case. The highway's elevation should constitute a special circumstance, and

WHEREAS, the Board further finds that the owner of this property recently acquired this land and building under the belief that they would be able to utilize the high rise sign to meet their needs. The strict application of the regulation would cause substantial damage to their company and challenge its success, and

WHEREAS, the Board further finds that the owner purchased the property with this sign in place. They are looking to enhance the sign slightly to meet their standard specs and brand requirements; and

Waiver of LDC Section 8.3.3.B.3 to allow more than one freestanding sign on a lot with single street frontage along Bishop Lane and I-264:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the property had operated years prior with the existing freestanding sign near Interstate 264 while also having a monument sign located along Bishop Lane. The intent of the sign along the interstate is to allow visibility while the sign along Bishop Lane helps to direct people to the hotel, and

WHEREAS, the Board further finds that the waiver will not violate specific guidelines of Cornerstone 2020, namely Community Form/Land Use Guideline 3: Compatibility A.4/5/6/7 and A.28, which the proposed sign does not constitute a non-residential expansion into the existing residential area. The sign is compatible with the form district pattern (general vicinity) since there are existing freestanding signs along Newburg Road and along the rear of parcels on Bishop Lane, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the applicant purchased the property with the intent of utilizing both freestanding signs on the property, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since the proposed new sign box along Interstate 264 and the existing monument sign along Bishop Lane were present prior to the applicant purchasing the subject site, and

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WHEREAS, the Board further finds that the waiver will not adversely affect adjacent property owners. This facility has operated for years with two freestanding signs. There is no reasonable expectation that the allowance of Newburg Hospitality, LCC to continue to have two freestanding signs would in any way harm, inconvenience or adversely affect adjacent property owners, and

WHEREAS, the Board further finds that the waiver will not violate the Comprehensive Plan. The allowance of this waiver will not have any adverse effects on the character/nature of the community. This property has had two freestanding signs for a long time, and

WHEREAS, the Board further finds that Newburg Hospitality LLC purchased the property with the expectation that they'd be able to utilize both of the existing freestanding signs on the property. The allowance of this waiver is the minimum necessary to afford relief to Newburg Hospitality LLC, and

WHEREAS, the Board further finds that Newburg Hospitality LLC purchased the property with the expectation that they'd be able to utilize both of the existing freestanding signs on the property. To prohibit them from doing so would create an unnecessary hardship on the applicant; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment in Case Number 16VARIANCE1063 does hereby **APPROVE** Variance from the Land Development Code Section 8.3.3.A.10.d to allow a freestanding sign to exceed the height and area as allowed from table 8.3.2 for the Suburban Workplace Form District (**Area: Requirement 60 sf., Request 217 sf., Variance 157 sf.; Height: Requirement 12 ft., Request 67 ft., Variance 55 ft.**), and Waiver of LDC Section 8.3.3.B.3 to allow more than one freestanding sign on a lot with single street frontage along Bishop Lane and I-264, based on the staff report, the testimony from the applicant's representative, the applicant's variance justification and the applicant's waiver justification.

The vote was as follows:

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

01:13:49 Meeting was recessed.

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01:13:52 Meeting was reconvened.

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CASE NUMBER 16WAIVER1033

Request:	Exceptional Signage Review
Project Name:	Crescent Center
Location:	631 S 3 rd Street
Owner:	TMG III Crescent Center LLC
Applicant:	Trilogy Real Estate
Representative:	William Bardenwerper
Jurisdiction:	Louisville Metro
Council District:	4 – David Tandy
Case Manager:	Laura Mattingly, Planner I

NOTE: Prior to this case being heard, Chair Allendorf stated the Board would be losing quorum at 11:15, so the two Appeal Cases were rescheduled at this time; see pages 25-28 for Motion (see recording for detailed presentation).

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

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

Agency Testimony:

01:16:59 Laura Mattingly stated the applicant is requesting a continuance to the October 3, 2016 Board of Zoning Adjustment hearing because the applicant has a Powerpoint presentation they would like to show (see staff report and recording for detailed presentation).

01:17:22 Chair Allendorf stated the October 3, 2016 date was just closed with the two Appeals, so asked if October 17, 2016 was acceptable to the applicant (see recording for detailed presentation).

01:17:54 Laura Mattingly stated the applicant is good with the 17th (see recording for detailed presentation).

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01:18:20 On a motion by Vice Chair Jarboe, seconded by Member Bergmann, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment in Case Number 16WAIVER1033 does hereby **CONTINUE** the case to the October 17, 2016 Board of Zoning Adjustment meeting at the applicant's request.

The vote was as follows:

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

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CASE NUMBER 16CUP1023

Request:	Conditional Use Permit and variance to allow an accessory apartment in an R-5 zoning district
Project Name:	None
Location:	811 Fetter Avenue
Owner:	Companies Wood Properties, LLC
Applicant:	Company Wood Properties, LLC
Representative:	Sarah Beth Sammons
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
Case Manager:	Jon E. Crumbie, Planning and Design Coordinator

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

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

Agency Testimony:

01:19:36 Jon Crumbie presented the case (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Kevin Young, 503 Washburn Avenue, Louisville, KY 40222

Summary of testimony of those in favor:

01:21:40 Kevin Young spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

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01:30:44 **Board Members' deliberation**

01:32:57 On a motion by Member Bergmann, seconded by Vice Chair Jarboe, the following resolution was adopted:

Conditional Use Permit to allow an accessory apartment in an R-5 zoning district:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the applicable policies of the Comprehensive Plan. Guideline B.2 (Community Form), the proposal preserves the existing grid pattern of streets, sidewalks and alleys. Guideline A. 23 (compatibility), setbacks and building heights are compatible with those of nearby existing developments. The applicant will be proposing an alternative landscape plan, and

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

WHEREAS, the Board further finds that MSD and Transportation Planning have reviewed and approved the proposal. The Louisville Fire District #4 did not comment on the proposal, and

WHEREAS, the Board further finds that the principal and accessory dwellings shall be owned by the same person(s). Occupancy of the accessory unit shall occur only while the property owner(s) resides in the principal dwelling on the premises, and

WHEREAS, the Board further finds that the accessory apartment shall be no greater than 650 sq. ft. or 30% of the floor area of the principal residence, whichever is greater, and

WHEREAS, the Board further finds that if the accessory apartment is located in a freestanding structure, it shall not exceed the height of the principal residence. In the TNFD, permissible height shall be as allowed by the form district regulation, unless the Board approves a differing height. In all other form districts, if the freestanding structure is located within 25 feet of a property line, the height of the structure shall not exceed the average height of accessory structures on abutting parcels or 15 feet, whichever is greater, unless the Board finds that a different height limit is appropriate, and

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WHEREAS, the Board further finds that Sites having accessory apartments shall provide off-street parking for the principal and accessory apartment as follows:

1. Neighborhood Form District - at least three off-street spaces provided on the lot, no more than two spaces outdoors;
2. Traditional Neighborhood - at least one off-street space provided on the lot; and
3. Other form districts - at least two off-street spaces provided on the lot; the Board may require additional parking spaces as appropriate; and

Variance to allow the accessory structure/use area to exceed the required 60' depth:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the variance will allow a safe passage from the alley to the proposed garage, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since there are varying accessory structure/use areas and rear yards for detached garages in the surrounding neighborhood, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the proposed structure is set this distance away from the rear property line due to the existing grading, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the encroachment will not be noticeable from the street or alley and private yard will still be met, and

WHEREAS, the Board further finds that the requested variance does arise from special circumstances which do not generally apply to land in the general vicinity or the same zone since the grade from the rear property line will not allow for safe ingress/egress to the garage, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since the rear property would have to be graded if possible, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation

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from which relief is sought since the grading has been the norm for many years; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment in Case Number 16CUP1023 does hereby **APPROVE** the Conditional Use Permit to allow an accessory apartment in an R-5 zoning district, the Alternative Landscape Plan, and the Variance to allow the accessory structure/use area to exceed the required 60 ft. depth (**Requirement 60'**, **MODIFIED Request 68'**, **MODIFIED Variance 8'**), based on the Staff Report, the discussion, the presentation before the Board and the discussion of the Board for the change and the applicant's approval of the change, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.

2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for an accessory apartment without further review and approval by the Board.

The vote was as follows:

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

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CASE NUMBER 16CUP1029

Request: Conditional Use Permit and variances to allow a home for the infirm and aged in a C-1 zoning district
Project Name: Stonecrest Senior Living
Location: 1105 Dorsey Lane
Owner: Hogan Holdings 42, LLC
Applicant: NP Senior Living Development, LLC
Representative: William Bardenwerper
Jurisdiction: Lyndon
Council District: 18 – Marilyn Parker
Case Manager: Jon E. Crumbie, Planning and Design Coordinator

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

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

Agency Testimony:

01:35:47 Jon Crumbie presented the case (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223
Ann Richard, 503 Washburn Ave., Louisville, KY 40222
Jed Momot, 5015 NW Canal Street, Riverside, MO 64150
Dennis Barnett, 10408 Morat Ave., Louisville, KY 40223

Summary of testimony of those in favor:

01:38:25 Nick Pregliasco spoke in favor of the request (see recording for detailed presentation).

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01:46:28 Ann Richard spoke in response to questions regarding the tree canopy (see recording for detailed presentation).

01:47:06 Nick Pregliasco spoke in favor of the request (see recording for detailed presentation).

01:54:22 Ann Richard responded to questions from the Board Members (see recording for detailed presentation).

01:55:04 Nick Pregliasco continued his presentation (see recording for detailed presentation).

01:56:18 Jed Momot spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:58:59 Nick Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

02:00:58 Dennis Barnett spoke in favor of the request (see recording for detailed presentation).

02:02:07 Nick Pregliasco responded to questions from the Board Members in regard to the access easement (see recording for detailed presentation).

02:02:41 Dennis Barnett spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

02:04:36 Board Members' deliberation

02:05:15 Jed Momot responded to questions from the Board Members (see recording for detailed presentation).

02:06:14 Nick Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

02:07:05 Jon Baker, Legal Counsel, spoke in regard to Member Howard's request that the buildings that will be built on the property will be substantially

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similar in architectural style and materials to the renderings that were presented (see recording for detailed presentation).

02:07:37 Jon Crumbie stated that was already part of the original binding elements (see recording for detailed presentation).

02:08:00 Board Members' deliberation

02:10:09 On a motion by Vice Chair Jarboe, seconded by Member Bergmann, the following resolution was adopted:

Conditional Use Permit to allow a home for the infirmed and aged in a C-1 zoning district:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the applicable policies of the Comprehensive Plan. Guideline 3, A.1, the proposal is generally compatible with the scale and site design of properties to the south and west of the site. Tree canopy and landscaping requirements will be met, and

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

WHEREAS, the Board further finds that MSD and Transportation Planning have reviewed and approved the plan. The Middletown Fire District did not provide comments, and

WHEREAS, the Board further finds that ~~all buildings shall be located at least 30 feet from any property line~~ **the structure will be 14 feet from the north property line.** and

WHEREAS, the Board further finds that ~~one sign, not to exceed 60 square feet and six feet in height, may be placed at each of the major entrances, except in districts where larger signs are allowed~~ **the applicant is proposing a sign near the intersection of Dorsey Lane and Hurstbourne Parkway.** and

WHEREAS, the Board further finds that The Board of Zoning Adjustments shall add any restrictions to mitigate nuisances or adverse effects; and

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Variance to allow proposed parking/maneuvering to encroach into the required Dorsey Lane street side yard:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since Dorsey Lane has a surplus of unused right-of-way, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the parking area is at least 73 feet from the edge of pavement for Dorsey Lane, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the required landscaping and buffering will be provided along Dorsey Lane, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the site is elevated higher than Dorsey Lane and enhanced landscaping will be provided, and

WHEREAS, the Board further finds that the requested variance does arise from special circumstances which do not generally apply to land in the general vicinity or the same zone since the setback is an aesthetic issue in an area where the encroachment can be mitigated with enhanced landscape in areas where greater setback is provided, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since the parking is unable to use the northeast corner of the site because of the requirement in the area to provide a connection to the adjoining property to the east, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since a prior case from a different applicant was required to provide a connection to the adjoining property to the east; and

Variance to allow proposed parking/maneuvering to encroach into the required Hurstbourne Parkway front yard:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare

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since the diminished setback is an aesthetic one which can be mitigated with enhanced landscaping, and

WHEREAS, the Board further finds that The requested variance will not alter the essential character of the general vicinity since the parking area is at least 50 feet from the edge of pavement for Hurstbourne Parkway, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the required landscaping will be provided along Hurstbourne Parkway, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the site is elevated higher than Hurstbourne Parkway and enhanced landscaping will be provided, and

WHEREAS, the Board further finds that the requested variance does arise from special circumstances which do not generally apply to land in the general vicinity or the same zone since the setback is an aesthetic issue in an area where the encroachment can be mitigated with enhanced landscape in areas where greater setback is provided, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since parking/maneuvering would be greatly diminished, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since a prior case from a different applicant was required to provide a connection to the adjoining property to the east, and

WHEREAS, the Board further finds that based on the staff report, the applicant's justification and the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment in Case Number 16CUP1029 does hereby **APPROVE** the Conditional Use Permit to allow a home for the infirmed and aged in a C-1 zoning district, Variance to allow proposed parking/maneuvering to encroach into the required Dorsey Lane street side yard (**Requirement 25'**, **Request 15'**, **Variance 10'**), and Variance to allow

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proposed parking/maneuvering to encroach into the required Hurstbourne Parkway front yard (**Requirement 50'**, **Request 31'**, **Variance 19'**), based on the applicant's justification and Standard of Review and Staff Analysis of the plans as submitted, the Standard of Review and Staff Analysis for Variances on pages 3, 4 and 5 and the applicant's variance justification statement, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval

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

The vote was as follows:

Yes: Members Howard, Bergmann, Vice Chair Jarboe, and Chair Allendorf

Absent: Members Fishman, Turner, and Tharp

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CASE NUMBER 16APPEAL1008

Request: Appeal of a refusal issued by staff, concerning the establishment of a nonconforming use with a change to another nonconforming use

Project Name: Nonconformance

Location: 2747 South Seventh Street Road

Owner: Gary S. Ruark & Mary Birkhead Ruark

Applicant: Gary S. Ruark & Mary Birkhead Ruark

Representative: William B. Bardenwerper

Jurisdiction: Louisville Metro

Council District: 6—David James

Case Manager: Steve Hendrix, Planning and Design Supervisor

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

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

Agency Testimony:

None.

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition to the request:

No one spoke.

01:14:10 On a motion by Member Howard, seconded by Member Bergmann, the following resolution was adopted:

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PUBLIC HEARING

CASE NUMBER 16APPEAL1008

RESOLVED, that the Louisville Metro Board of Zoning Adjustment in Case Number 16APPEAL1008 does hereby **CONTINUE** the case to the October 3, 2016 Board of Zoning Adjustment meeting due to loss of quorum at today's meeting.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 16APPEAL1009

Request: Appeal of a Notice of Violation issued by the Department of Codes and Regulations concerning the consumption of alcohol (indoor & outdoor) at a retail package store location within a C-1 zoning district

Project Name: Nonconformance

Location: 14009 Dixie Highway

Owner: Kenneth L. Hagan

Applicant: Steelhorse Package Liquor & Saloon

Representative: Kenneth L. Hagan

Jurisdiction: Louisville Metro

Council District: 14—Cindi Fowler

Case Manager: Steve Hendrix, Planning and Design Supervisor

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

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

Agency Testimony:

None.

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition to the request:

No one spoke.

01:14:10 On a motion by Member Howard, seconded by Member Bergmann, the following resolution was adopted:

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PUBLIC HEARING

CASE NUMBER 16APPEAL1009

RESOLVED, that the Louisville Metro Board of Zoning Adjustment in Case Number 16APPEAL1009 does hereby **CONTINUE** the case to the October 3, 2016 Board of Zoning Adjustment meeting due to loss of quorum at today's meeting.

The vote was as follows:

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

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ADJOURNMENT

The meeting adjourned at approximately 11:29 a.m.

Arnell Curry
Chair

Beth S. Gardner
Secretary
Vice Chair