

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

August 1, 2016

A meeting of the Louisville Metro Board of Zoning Adjustment was held on August 1, 2016 at 8:30 a.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Betty Jarboe, Vice Chair
Rosalind Fishman, Secretary
Lester Turner
Paul Bergmann
Lula Howard
Dean Tharp

Members Absent:

Mike Allendorf, Chair

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Reverman, Planning & Design Assistant Director
Brian Davis, Planning & Design Manager
Steve Hendrix, Planning & Design Supervisor
Brian Mabry, Planning & Design Supervisor
Ross Allen, Planner I
Joel Dock, Planner I
Burcum Keeton, Architectural Projects Coordinator
John Carroll, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

July 11, 2016 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:04:30 On a motion by Member Bergmann, seconded by Member Howard, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on July 11, 2016.

The vote was as follows:

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

Absent: Chair Allendorf

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BUSINESS SESSION

CASE NUMBER 16VARIANCE1050

Request:	Variance from Development Code (St. Matthews) section 4.7.C.2.b to allow a side yard setback to be less than the minimum required 5 foot.
Project Name:	237 Fairfax Avenue
Location:	237 Fairfax Avenue
Owner:	Ann and Henry Austin
Applicant:	Charlie Williams – Charlie Williams Design
Representative:	Charlie Williams – Charlie Williams Design
Jurisdiction:	City of St. Matthews
Council District:	9 – Bill Hollander
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:

00:05:22 Steve Hendrix stated all the adjacent property owners have signed off (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition to the request:

No one spoke.

00:05:36 Board Members' deliberation

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BUSINESS SESSION

CASE NUMBER 16VARIANCE1050

00:05:42 On a motion by Member Howard, seconded by Member Bergmann, the following resolution was adopted:

Variance #1 from the St. Matthews Development Code Section 4.7.C.2.b, to allow an existing accessory structure to encroach into the minimum required side yard setback:

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 side yard setback is an existing condition and the property is private with no access to the public, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the new addition that is to be constructed onto the principal structure triggered the variance for the side yard setback of the accessory structure, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the addition is onto the rear of the principal structure and is not intended for use by the public, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the proposed addition is within the permitted uses within the Development Code (St. Matthews) for a parcel zoned R-5, 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, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant resulting in the inability of the applicant to construct the proposed addition to the rear of the principal structure, and

WHEREAS, the Board further finds that the construction of the new addition onto the rear of the principal structure requires that the applicant seek relief to allow the side yard setback to the existing accessory structure to be less than required by the Development Code (St. Matthews); now, therefore be it

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CASE NUMBER 16VARIANCE1050

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1050, does hereby **APPROVE** Variance from the St. Matthews Development Code Section 4.7.C.2.b, to allow an existing accessory structure to encroach into the minimum required yard setback (**Requirement 5'**, **Request 3'**, **Variance 2'**), based on the Staff Report and testimony from staff.

The vote was as follows:

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

Absent: Chair Allendorf

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BUSINESS SESSION

CASE NUMBER 16APPEAL1006

Request:	Reconsideration Request for Appeal of an administrative action that determined a structure to be a religious building
Project Name:	Appeal
Location:	500 Caldwell Street
Owner:	Pescador, LLC
Applicant:	Travis Provencher Family Trust
Representative:	Ryan Fenwick
Jurisdiction:	Louisville Metro
Council District:	4 – David Tandy
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:

00:06:41 Steve Hendrix 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:

No one spoke.

The following spoke in opposition to the request:

No one spoke.

00:10:15 Board Members' deliberation

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BUSINESS SESSION

CASE NUMBER 16APPEAL1006

**00:18:25 THIS CASE DIED IN COMMITTEE FOR LACK OF A MOTION.
NO VOTE OR ACTION WAS TAKEN ON THIS CASE.**

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CASE NUMBER 16DEVPLAN1079

Request: Two variances from LDC section 5.3.3.C.2.b and c, a
Landscape waiver from section 10.2.10, and a
Sidewalk waiver from LDC section 5.8.1.B

Project Name: 7410 South Park Place
Location: 7410 South Park Place
Owner: Karim Momeni
Applicant: Karim Momeni
Representative: Matt Wolff – Sabak, Wilson, and Lingo Inc.
Jurisdiction: Norwood
Council District: 7 – Angela Leet
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:

00:19:51 Ross Allen presented the case and showed a Powerpoint presentation. Mr. Allen responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Matt Wolff, 608 S. Third Street, Louisville, KY 40202

Summary of testimony of those in favor:

00:34:00 Matt Wolff spoke in favor of the request and showed a Powerpoint presentation. Mr. Wolff responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition to the request:

Simon Fields, 119 Norwood Drive, Louisville, KY 40222
Jessica Fields, 119 Norwood Drive, Louisville, KY 40222
Kenneth Geisler, 301 Arterburn Drive, Louisville, KY 40222

Summary of testimony of those in opposition:

00:44:28 Simon Fields spoke in opposition to the request. Mr. Fields presented pictures and explained them to the Board Members (see recording for detailed presentation).

00:56:43 Jessica Fields spoke in opposition to the request (see recording for detailed presentation).

00:59:43 Kenneth Geisler spoke in opposition to the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in Rebuttal:

Karim Momeni, 654 S. Shelby Street, Louisville, KY 40202

Summary of Rebuttal testimony:

01:05:39 Karim Momeni spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

01:23:14 Board Members' deliberation

01:38:29 On a motion by Member Fishman, seconded by Member Bergmann, the following resolution was adopted:

Variance #1 from LDC Section 5.3.3.C.2.b allowing the side yard setback (38.9 ft.) to be less than the required 50', and Variance #2 from LDC Section 5.3.3.C.2.b to allow vehicular maneuvering in the side yard setback:

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 proposed two-story condominium sets approximately 10.2' ft. from the adjusted side yard property line allowing for sufficient space between the nearest residential home located on 116 Norwood Drive (residence on lot 2), and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since there are already two other existing Multi-family residential land uses south along Norwood Road, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the subject property has a shared use access to both properties along the southern property line, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the applicant plans on having an access easement between the two properties that will be established once the applicant has submitted the minor plat, 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 proposed development is similar to the multifamily units as found further south along Norwood Drive, 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 create an unnecessary hardship on the applicant since the proposed ingress/egress is found directly off of Norwood Drive between the residence and the proposed multi- family condo's and any change to the structure or parking would require other waivers and/or variances, and

WHEREAS, the Board further finds that since the applicant has not constructed nor can construct without the Boards approval of the variances, waivers, and the approved minor plat for the subject site; and

Waiver #1 from LDC Section 10.2.10 to not provide the required vehicular use area landscape buffer between lot 1 and lot 2:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the both lots will have a common easement access which impacts properties on lot 1 and lot 2 only, and

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WHEREAS, the Board further finds that the waiver will not violate guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for parking areas adjacent to streets to be screened and buffered. The waiver will not violate guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way. The applicant has provided screening of the VUA from South Park Place and Norwood Drive. However, as a result of the lots sharing an ingress/egress the screening requirement cannot be met for the purpose of screening the residential property found on lot 2, 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 an access easement will be undertaken during the minor plat allowing for both properties to have access off of Norwood Drive ingress/egress. The only alternative would to provide a waiver allows the applicant an ingress/egress off of South Park Place requiring a similar waiver, 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 applicant, if not allowed to construct the single shared ingress/egress off of Norwood Drive would be required to place the ingress/egress off of South Park Place. South Park Place is a narrower road than Norwood Drive and Lot 2 would still have the residential driveway allowing for access to the condominiums from South Park Place and Norwood Drive; and

Waiver #2 from LDC Section 5.8.1.B to not provide sidewalks in the abutting right of way to serve the development site along road frontages:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since there are currently no sidewalks in the general vicinity and letters of support for the waiver are documented from a neighbor and the City Council of the City of Norwood, and

WHEREAS, the Board further finds that Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made

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necessary by development. Guideline 9, Policy 1 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. However, the City of Norwood as a separate city adheres to the Land development code requiring sidewalks in the case. Sidewalks are not found in the nearby Neighborhood, along South Park Place, or Norwood Drive, and

WHEREAS, the Board further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since adding sidewalks to the site would lead to adjacent properties that do not have sidewalks in the general vicinity. The property sits east of New LaGrange Road and north of Shelbyville Road and is only accessible by vehicular travel, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since the cost of constructing sidewalks could be costly and the general vicinity has no sidewalks in the City of Norwood; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16DEVPLAN1079, does hereby **APPROVE** Variance #1 from LDC Section 5.3.3.C.2.b allowing the side yard setback (38.9') to be less than the required 50' (**Requirement 50'**, **Request 38.9'**, **Variance 11.1'**), Variance #2 from LDC Section 5.3.3.C.2.b to allow vehicular maneuvering in the side yard setback, Waiver #1 from LDC Section 10.2.10 to not provide the required vehicular use area landscape buffer between lot 1 and lot 2, and Waiver #2 from LDC Section 5.8.1.B to not provide sidewalks in the abutting right of way to serve the development site along road frontages, based on the Staff Report, the presentation, the discussion and responses from the applicant and the neighbors, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. There will be a sign on the existing driveway from Norwood onto the lot that says "Do Not Enter", as well as a speed bump.
2. The existing 1 ½ story brick house with basement will be maintained as a single family home, and any change to such MUST be presented to the Board of Zoning Adjustment.

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The vote was as follows:

Yes: Members Fishman, Turner, Bergmann, and Vice Chair Jarboe

No: Members Tharp, and Howard

Absent: Chair Allendorf

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PUBLIC HEARING

CASE NUMBER B-17987-12

Request: Seismographic Analysis Summary Report as per the BOZA minutes of B-17987-12, condition #1.
Project Name: Seismographic Analysis
Location: 7331 Global Drive
Owner: Yamamoto FB Engineering
Applicant: Yamamoto FB Engineering
Representative: Darryl Keels
Jurisdiction: Louisville Metro
Council District: 12—Rick Blackwell
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:

01:43:58 Steve Hendrix presented the case and showed a Powerpoint presentation. Mr. Hendrix responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Darryl Keels, 7331 Global Drive, Louisville, KY

Summary of testimony of those in favor:

01:47:42 Darryl Keels 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:

Myra Hillerich, 7608 Tommie Court, Louisville, KY

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Tommy Hillerich, 7608 Tommie Court, Louisville, KY

Summary of testimony of those in opposition:

02:18:40 Tommy Hillerich spoke in opposition to the request (see recording for detailed presentation).

02:20:33 Myra Hillerich spoke in opposition to the request (see recording for detailed presentation).

02:22:34 Mr. and Mrs. Hillerich responded to questions from the Board Members (see recording for detailed presentation).

Rebuttal:

02:29:40 Darryl Keels spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

02:40:09 Board Members' deliberation

02:48:46 On a motion by Member Howard, seconded by Member Fishman, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number B-17987-12 to the October 3, 2016 Board of Zoning Adjustment hearing, based on the testimony today and the Staff Report, especially pages 12 and 13 with the Conditions as they were approved in 2012. The Board requests the following items be presented at the October 3, 2016 hearing:

1. A more complete analysis from Mr. Trowbridge of Kentuckiana Seismic Survey, which will detail the May, 2016 analysis in addition to the analysis from 2012.
2. Past history from Codes and Regulations regarding Condition #2 concerning the inspections of the site after the analysis was completed with regard to noise and vibration from the Hillerich's property.

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3. Justification of Yamamoto FB Engineering fixing the cracks in the Hillerich's garage and an update on the report.

The vote was as follows:

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

Absent: Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 16VARIANCE1048

Request:	Sign Variance and Waivers
Project Name:	Shell Sign
Location:	1123 S Floyd Street
Owner:	Mark Young, TA Operating, LLC
Applicant:	Sherri Hartsell, Florida Centerline Group
Representative:	Sherri Hartsell, Florida Centerline Group
Jurisdiction:	Louisville Metro
Council District:	6 – David James
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:

02:52:17 Brian Mabry presented the case on behalf of the Case Manager, Laura Mattingly, and showed a Powerpoint presentation. Mr. Mabry responded to questions from the Board Members. Mr. Mabry presented to the Board Members a letter of opposition which was incorporated into the record (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Sherri Hartsell, 414 Russell Street, Kannapolis, NC 28083

Summary of testimony of those in favor:

03:02:54 Sherri Hartsell 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:

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No one spoke.

03:09:07 Board Members' deliberation

03:28:31 On a motion by Member Howard, seconded by Member Fishman, the following resolution was adopted:

Variance from the Land Development Code Table 8.3.2 (Traditional Neighborhood) to allow an existing freestanding sign to exceed the minimum height and area:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the sign does not encroach into the right of way and does not obstruct vision from the right-of-way, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the sign has existed on this site since 1998 and this intersection is commercial in character, due to this site, a second convenient store across St. Catherine, as well as the I-65 interchange at this location, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the sign does not encroach into the right of way and does not obstruct vision from the right-of-way and will not change size or location, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the height and area of the sign have existed as is since the sign was erected and the applicant now seeks to bring the non-conforming status into compliance, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as this sign was erected before the current zoning regulations, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the applicant would have to remove the sign and build a new sign that might

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negatively affect advertising for the Shell station and also increase the costs to the applicant significantly, and

WHEREAS, the Board further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is proposing a change that requires a waiver of the LED requirements, causing the sign to lose its legally non-conforming status; and

Waiver #1 from LDC Section 8.2.1.D.6 to allow LED signs to be located within 300 feet of residentially zoned properties:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as it is surrounded by interstate and another commercial establishment, and

WHEREAS, the Board further finds that Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policy 28 calls for signs that are compatible with the form district pattern and contribute to the visual quality of their surroundings. These guidelines are not violated as the proposed sign with LED portion is similar to the sign for the convenient store across St. Catherine and is an improvement on the aesthetics of the current sign. In addition, the regulations for LED lighting will mitigate any possible intrusions on the nearby residential properties, 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 as the proposed LED portion of the sign is the only change that requires a waiver, 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 and would create an unnecessary hardship on the applicant as the use of LED for displaying gas prices is a current standard for many gas stations and the denial of this waiver may cause this site to lose potential customers; and

Waiver #2 from LDC Section 8.3.3.B.9 to allow a freestanding pole-style sign in the Traditional Neighborhood Form District, where only Columnar or Monument style signs are permitted:

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as it is surrounded by interstate and another commercial establishment, and

WHEREAS, the Board further finds that Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policy 28 calls for signs that are compatible with the form district pattern and contribute to the visual quality of their surroundings. These guidelines are not violated as the proposed sign is similar to the gas station sign across St. Catherine and will be an improved aesthetic over the current sign, 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 as the style of the sign has been in place since 1998 and is not being changed, 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 and would create an unnecessary hardship on the applicant as the denial of the waiver for sign style would require the current sign to be removed and rebuilt, facing the applicant with increased costs; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment in Case Number 16VARIANCE1048 does hereby **APPROVE** Variance from the Land Development Code Table 8.3.2 (Traditional Neighborhood) to allow an existing freestanding sign to exceed the minimum height and area (**Sign Height: Requirement 6', Request 30', Variance 24' – Sign Area: Requirement 32 SF, Request 172 SF, Variance 140 SF**), based on pages 2 and 3 of the Staff Report and that the existing sign is grandfathered in, it's only being refaced, the height has always been there since 1998 and that the height and total area will not impact adversely on the neighborhood; and Waiver #1 from LDC Section 8.2.1.D.6 to allow LED signs to be located within 300 feet of residentially zoned properties, based on pages 3 and 4 of the Staff Report; and Waiver #2 from LDC Section 8.3.3.B.9 to allow a freestanding pole-style sign in the Traditional Neighborhood Form District, where only Columnar or Monument style signs are permitted, based on page 4 of the Staff Report that it will not adversely affect the adjacent property owners as it is surrounded by the Interstate and another commercial establishment to the north, also that it will not be an impact on the residential area.

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The vote was as follows:

Yes: Members Fishman, Turner, Tharp, Howard and Bergmann

No: Vice Chair Jarboe

Absent: Chair Allendorf

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CASE NUMBER 16VARIANCE1052

Request: Variance to exceed the maximum height requirement within a transition zone
Project Name: Chamberlain Pointe
Location: 4640 Chamberlain Lane
Owner: Julep Holdings LLC
Applicant: Julep Holdings LLC
Representative: Bardenwerper, Talbott & Roberts, PLLC
Jurisdiction: Louisville Metro
Council District: 17 – Glen Stuckel
Case Manager: Joel Dock, 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:

03:32:27 Joel Dock presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N. Hurstbourne Parkway, Louisville, KY 40223
Tony Bayus, 13050 Magisterial Drive, Louisville, KY 40223
Kevin Young, 503 Washburn Avenue, Louisville, KY 40222

Summary of testimony of those in favor:

03:40:19 Nick Pregliasco spoke in favor of the request and showed a Powerpoint presentation. Mr. Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

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03:50:34 Tony Bayus spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

03:52:09 Mr. Pregliasco responded to further questions from the Board Members (see recording for detailed presentation).

03:52:40 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.

03:54:44 Board Members' deliberation

00:37:28 On a motion by Member Fishman, seconded by Member Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety, or welfare as the proposed additional height does not appear to impact site lines for safe pedestrian or vehicular movement on nearby roadways, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the site is surrounded by a mixture of commercial and office uses of a variety of heights to which the architectural style of the proposed structure will be compatible. The proposed office building will also serve as a focal point for the development site, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed structure is compatible with surrounding commercial and offices uses along Brownsboro Road which is a high traffic commercial corridor. A 3-story office building will also provide a density of office uses to be accessed from the Gene Snyder Freeway and public transportation, and

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WHEREAS, the Board further finds that the variance arises from special circumstances that do not generally apply to the land in the general vicinity as the proposed use is located at the periphery of the Regional Center form district abutting a neighborhood form district, 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 as the proposed structure is compatible with surrounding uses and will serve as a focal point for this commercial and office development. Additionally, the proposed height does not create any adverse risk to the public health, safety, or welfare or cause a nuisance to the public, 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; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1052, does hereby **APPROVE** Variance from the Development Code Section 5.7.1.B.1 to allow the height of a proposed structure to exceed the maximum requirement within a transition zone (**Requirement 45'**, **Request 58'**, **Variance 13'**), based on the Standard of Review and Analysis for Variance on page 2 and the additional considerations on pages 2 and 3, the applicant's variance justification, the discussion and the presentation.

The vote was as follows:

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

Absent: Chair Allendorf

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CASE NUMBER 16VARIANCE1029

Request:	Variance from the Land Development Code section 5.3.1 Table 5.3.1 to allow first and second story decks to encroach into the minimum side yard setback.
Project Name:	108 East Burnett Avenue
Location:	108 East Burnett Avenue
Owner:	Bruce Cohen
Applicant:	Bruce Cohen
Representative:	Bruce Cohen
Jurisdiction:	Louisville Metro
Council District:	6– David James
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:

03:58:03 Ross Allen presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Bruce Cohen, 619 Floral Terrace, Louisville, KY 40208

Summary of testimony of those in favor:

04:01:40 Bruce Cohen spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition to the request:

No one spoke.

04:03:20 Board Members' deliberation

04:03:38 On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the proposed deck is being added to the rear of the principal structure which predates the current form district regulations. The Urban Design team has issued an approved Certificate of Appropriateness (COA) stating that the designs meet the applicable Design Guidelines. Furthermore, the home as situated on the parcel is not in close proximity to any principal structures nor accessory structures mitigating any adverse effects public health, safety, or welfare, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since many homes in the general vicinity have existing decks attached on the rear of the principal structures, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the home as situated on the parcel is not in close proximity to any principal structures nor accessory structures on adjacent properties, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the home would have been constructed in 1900 predating zoning regulations. However, the addition of the second story rear deck is within design guidelines of the existing structure and poses no adverse impact upon adjacent properties, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone since many homes in the Old Louisville Historic Preservation district (TNZD) are in close proximity to other structures which predate both zoning and form district regulations as required by the LDC, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since the

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applicant has asked and received a COA and is requesting the variance is an attempt to come into compliance with the requirements set forth by the LDC, 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 applicant has not undertaken any construction related to the proposed decks to date; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1029, does hereby **APPROVE** Variance from the Land Development Code Section 5.2.2 table 5.2.2 to allow a house and a proposed second story deck to encroach into the side yard setback (**Requirement 3', Request 0', Variance 3'**), based on the Standard of Review and Staff Analysis for Variances on page 2 and the additional considerations on pages 2 and 3, the discussion, and the Certificate of Appropriateness.

The vote was as follows:

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

Absent: Chair Allendorf

04:05:19 Meeting was recessed.

04:11:23 Meeting was reconvened.

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CASE NUMBER 16VARIANCE1040

Request: Variance from Development Code 2003 section 4.3.C.2 to allow a proposed home to encroach into the minimum front yard setback within the City of Anchorage, KY.

Project Name: 11801 Woodland Road Setback

Location: 11801 Woodland Road

Owner: Joseph Pepper

Applicant: Jason Graves

Representative: Jason Graves

Jurisdiction: City of Anchorage, KY

Council District: 17 – Glen Stuckel

Case Manager: Ross Allen, Planner I

NOTE: Member Bergmann, as the Zoning Enforcement Officer of the City of Anchorage, is recused from this case.

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:

04:12:00 Ross Allen presented the case and showed a Powerpoint presentation. Mr. Allen responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jason Graves, 4302 Diamond Way, Louisville, KY 40216

Summary of testimony of those in favor:

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04:28:08 Jason Graves spoke on behalf of the applicant 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.

04:31:23 Board Members' deliberation

04:33:50 On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the proposed home will be located approximately 114' feet from Woodland Road, approximately 75' ft. 6" in. from Evergreen Road, approximately 83' feet from edge of pavement on Squire Lane, and approximately 67 feet from the nearest structure to the east, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since three other homes are located (having access) along Squires Lane each having setbacks less than the required for the front yard setbacks, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the proposed home will be set behind the trees lines along Woodland Road and Evergreen Road, and behind the stream and high water risk along Woodland Road, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the proposed home is similar in setback to the homes along Squires Lane. The variance request is related to two factors: 1.) the proposed home will remain out of the high water risk area and 2.) to preserve/save the existing tree line to maintain the character of the neighborhood, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone since the proposed home will be constructed on the

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higher, more flat elevated portion of the lot which lies outside of the high water risk area, to save trees, and maintain the rolling topography of the lot, 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

cost would become prohibitive, the usable area for a rear yard decreases, and places the home closer to the stream causing a potential flood risk, 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 home will be situated on the lot in order to prevent risks of flooding, removal of trees, and site placement on a flat elevated area; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1040, does hereby **APPROVE** Variance from Development Code (2003) Section 4.3.C.2 for an encroachment into the minimum front yard requirement in the City of Anchorage, KY along Squires Lane (**Requirement 75', Request 20', Variance 55'**), based on the Standard of Review and Staff Analysis for Variances on page 2 and additional considerations on pages 2 and 3, the applicant's variance justification and discussion.

The vote was as follows:

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

Absent: Chair Allendorf

Abstain: Member Bergmann

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CASE NUMBER 16VARIANCE1041

Request:	Variance from Development Code 2003 (City of St. Matthews) article 9.1.B.1.a to allow an existing fence to exceed the maximum height in the street side yard.
Project Name:	3531 Hycliffe Avenue
Location:	3531 Hycliffe Avenue
Owner:	William and Deborah Bass
Applicant:	William and Deborah Bass
Representative:	William and Deborah Bass
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
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:

04:37:20 Ross Allen presented the case and showed a Powerpoint presentation. Mr. Allen responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition to the request:

No one spoke.

04:45:30 Board Members' deliberation

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04:51:19 On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the fence is outside of the sight triangle and does not constrain visibility along Thompson Avenue nor Hycliffe Avenue. The additional two foot height on the fence poses no public, health, safety, or welfare concerns, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since another 6 foot vinyl fence is present in an adjacent property 3530 Hycliffe Avenue. The applicant states that in May of 2015 he replaced a six foot tall wooden fence that was dilapidated. The applicant replaced it with the vinyl fence. Further, the applicant states that the six foot high wooden fence had been in place in the subject property since the 1970's and that a six foot tall fence has been a part of the essential character of the general vicinity for many years, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since as stated previously; the existing fence is outside of sight triangles along the corner of Hycliffe Ave. and Thompson Ave., the height of the fence does not impact the views of pedestrians or vehicles. The applicant states that the fence has not been the subject of any complaints since he has lived at the property for more than 19 years, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the applicant has stated the previous 6 foot tall wooden fence was of the same height as the existing vinyl fence, 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 properties in the general vicinity have 6 ft. tall fences of vinyl, 3530 Hycliffe Ave., in the street side yard/s, 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 applicant purchased the corner property for the reason of having a privacy fence from traffic along the corner of Hycliffe Ave. and Thompson Ave. Removal or the reduction in height of the vinyl fence would "degrade the value of the property", meaning it is no longer a private rear yard. Also, the applicant states that to remove or modify the vinyl fence would place a financial hardship since

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the estimated cost of the fence was approximately \$4,800.00 dollars in order to replace the existing dilapidated wooden fence, and

WHEREAS, the Board further finds that the previous wooden fence was 6 feet tall and the current fence, although vinyl, is 6 ft. tall. The previous fence did pre-date the zoning regulations that St. Matthews uses, since they were effective as of 2003; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1041, does hereby **APPROVE** the Variance from the Development Code (2003) Article 9.1.B.1.a to allow an existing vinyl fence to exceed the maximum height allowed in the City of St. Matthews (**Requirement 4', Request 6', Variance 2'**), based on the Standard of Review and Staff Analysis for Variances on page 2, the additional considerations on pages 2 and 3, and the discussion.

The vote was as follows:

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

Absent: Chair Allendorf

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CASE NUMBER 16VARIANCE1046

Request: Variance from Development Code 2003 (City of St. Matthews) article 11.D.2.c to mount two attached signs at a height greater than 25' ft. on the building facade.

Project Name: 297 North Hubbards Lane
Location: 297 North Hubbards Lane
Owner: James Boland – Oakland LLC.
Applicant: Debbie Brent – Louisville Sign Company
Representative: Debbie Brent – Louisville Sign Company
Jurisdiction: St. Matthews
Council District: 7 – Angela Leet
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:

04:55:37 Ross Allen presented the case and showed a Powerpoint presentation. Mr. Allen responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Debbie Brent, Louisville Sign Company, 270 Ranch Road, Mt. Washington, KY

Summary of testimony of those in favor:

05:01:30 Debbie Brent spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition to the request:

No one spoke.

05:03:15 Board Members' deliberation

05:03:33 On a motion by Member Bergmann, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the proposed signs are being mounted at a height of 28' ft. 9" in. The building to the southwest has a First Capital bank of Kentucky Attached sign mounted at a similar height to what the applicant is requesting, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the building to the southwest has a First Capital Bank of Kentucky Attached sign mounted at a similar height to what the applicant is requesting, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the proposed height of the proposed signs are similar in size and character to what exist on an adjacent building to the southwest. The proposed signs are lite internally in a way that the light emitted is striking the building façade and creates a halo effect posing no impact upon adjacent properties, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the proposed height of the proposed signs are similar in size and character to what exist on an adjacent building to the southwest, 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 development code as used by St. Matthews requires that properties located in an OR-3 zoning district are required to have an attached sign mounted no higher than 25' feet on the building façade, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since Wells Fargo occupies space on the third floor of the building and sign placement

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below the third floor would impede on other businesses choosing to advertise their brand or services. Furthermore, the development code as used by St. Matthews requires that the business locate signage on their façade space, in this case the third floor which is at a greater elevation than allowed, 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 applicant is requesting a variance for the proposed signage height as required by the Development Code (2001) as used by the City of St. Matthews; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1046, does hereby **APPROVE** Variance from the Development Code (St. Matthews) Article 11.D.2.c to allow the proposed attached signs to exceed the maximum height allowed in the City of St. Matthews on an OR3 zoned parcel (**Requirement 25'**, **Request 28'9"**, **Variance 3'9"**), based on the case statement summary, testimony of staff, and testimony of the applicant.

The vote was as follows:

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

Absent: Chair Allendorf

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CASE NUMBER 16VARIANCE1042

Request:	Variance from Land Development Code section 5.3.1, table 5.3.1 to allow a proposed home to encroach into the minimum side yard setback.
Project Name:	4800 Lake Louisville Drive
Location:	4800 Lake Louisville Drive
Owner:	Clyde and Caroline Proctor
Applicant:	David F. Garber – Garber Chilton
Representative:	David F. Garber – Garber Chilton
Jurisdiction:	Louisville Metro
Council District:	16 – Kelly Downard
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:

05:05:34 Ross Allen presented the case and showed a Powerpoint presentation. Mr. Allen responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

David Garber, 2249 Commerce Parkway, Lagrange, KY 40031
Clyde Proctor, 7410 Edgewater Dr., Crestwood, KY 40014

Summary of testimony of those in favor:

05:13:55 David Garber spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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05:17:38 Clyde Proctor spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

05:22:15 **NOTE: Joe Reverman responded to questions from the Board Members regarding the location of the driveway (see recording for detailed presentation).**

05:24:04 Mr. Garber responded to further questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

Jason Eye, 2273 Beargrass Avenue, Louisville, KY 40218

Summary of testimony of those in opposition:

05:27:43 Jason Eye spoke in opposition to the request and responded to questions from the Board Members (see recording for detailed presentation).

Rebuttal:

05:37:43 David Garber spoke in rebuttal (see recording for detailed presentation).

05:39:48 Clyde Proctor spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

05:41:46 Mr. Garber and Mr. Proctor spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

05:43:38 **Board Members' deliberation**

05:45:53 On a motion by Member Howard, seconded by Member Bergmann, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the parcel is 40 feet wide and the applicant is proposing a 32' ft. wide

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residence. The home will be adjacent to parcels that have overgrowth on the northern, southern, and eastern sides, while the rear of the property (lying to the west) is adjacent to the front yard of 4806 Lake Louisvilla Drive which has a small garage that is approximately 42' ft. from the rear property line of the subject site, and

WHEREAS, the Board further finds that The requested variance will not alter the essential character of the general vicinity since many of the parcels in the general vicinity are undeveloped and the closest homes are either to the rear of the subject site or approximately 100 ft. north of the subject site. Applicant states that the home “will blend in well with other houses in the general vicinity”, and

WHEREAS, the Board further finds that The requested variance will not cause a hazard or nuisance to the public since the proposed residence will be contained on the two lots (which have been consolidated). The adjacent property on the southern side will remain vacant since a small stream runs through the lot, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the adjacent parcel on the southern side will remain unbuildable, as the result of a small stream running through the property, providing for the appearance of a larger side yard setback, 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 many lots in the general vicinity have frontages that are larger (more than 40' ft.), 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 frontage of the lot is 40' feet the applicant would not be able to construct the residence without the requested variance, and

WHEREAS, the Board further finds that the lots along Lake Louisvilla Drive were available for purchase with 20' feet of road frontage per lot. As a result the applicant consolidated two lots into one and the 40' ft. width of the lot along the road frontage is still not sufficient for the proposed residence; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1042, does hereby **APPROVE** Variance from the Land Development Code Section 5.3.1, table 5.3.1 to allow a proposed home to

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encroach into the side yard setback (**Requirement 5', Request 2', Variance 3'**), based on the Staff Report and the testimony that was heard today, the evidence that has been provided on the site plan and that it meets the standards for granting a variance.

The vote was as follows:

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

Absent: Chair Allendorf

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CASE NUMBER 16VARIANCE1049

Request: Variance from the Land Development Code sections 5.3.1 for the proposed attached garage to encroach into the minimum rear yard setback.

Project Name: 3220 Eagle Pass

Location: 3220 Eagle Pass

Owner: Anthony and Sarah Williams

Applicant: Anne Del Prince – Del Prince Designs LLC.

Representative: Anne Del Prince – Del Prince Designs LLC.

Jurisdiction: Louisville Metro/Audubon Park

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:

05:48:10 Ross Allen presented the case and showed a Powerpoint presentation. Mr. Allen responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Anne Del Prince, 640 Country Club Road, Louisville, KY 40206
Anthony Williams, 3220 Eagle Pass, Louisville, KY 40213

Summary of testimony of those in favor:

05:58:31 Anne Del Prince and Anthony Williams responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition to the request:

No one spoke.

06:00:43 Board Members' deliberation

06:01:31 On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the proposed garage will be on the private property and located approximately 33 ft. from the parcel line along Valley Road, 4 ft. 7" inches from the parcel line on the southern boundary and 15' ft. 4 inches from the parcel line on the eastern boundary, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since many homes in the area have attached and detached garages. The applicant states that the materials to be used with "blend with the existing house and neighborhood", and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the proposed garage is to be "used for the storage of a vehicle which is not running". The garage will have setbacks from adjacent properties by approximately 33 ft. from the parcel line along Valley Road, 4 ft. 7" inches from the parcel line on the southern boundary and 15' ft. 4 inches from the parcel line on the eastern boundary, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the elongated parcel sits at the corner of Eagle Pass and Valley Road is limited by the situation of the home and size of the lot, 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 lot is not large enough to accommodate the home and attached garage without encroaching into the required setbacks and rear yard area, 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

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the applicant cannot use their property/land as needed for the storage of a vehicle, and

WHEREAS, the Board further finds that the applicant is requesting a variance from the rear yard setback as set forth in LDC; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1049, does hereby **APPROVE** Variance from the Land Development Code Section 5.3.1, table 5.3.1 to allow an attached garage to encroach into the minimum rear yard setback (**Requirement 25', Request 4'7", Variance 20'5"**), based on the Standard of Review and Staff Analysis for Variances on page 2 plus the additional considerations on pages 2 and 3, the discussion, the staff presentation, and the variance justification.

The vote was as follows:

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

Absent: Chair Allendorf

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CASE NUMBER 16DEVPLAN1125

Request: Variance from the Land Development Code to allow the proposed building not to maintain the zero setback at the corner
Project Name: Outdoor Dining Area
Location: 350 East Market Street
Owner: University of Louisville Real Estate Foundation Inc.
Applicant: NTS Realty Holdings LP
Representative: Glenn Price
Jurisdiction: Louisville Metro
Council District: 4 –David Tandy
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:

06:03:33 Brian Davis presented the case on behalf of the Case Manager, Steve Hendrix, and showed a Powerpoint presentation. Mr. Davis responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Glenn Price, 400 W. Market, Suite 3200, Louisville, KY 40202
Brian Lavin, 600 N. Hurstbourne Parkway, Louisville, KY 40222

Summary of testimony of those in favor:

06:10:17 Glenn Price spoke in favor of the request and showed a Powerpoint presentation. Mr. Price responded to questions from the Board Members (see recording for detailed presentation).

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06:18:55 Brian Lavin spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

06:22:24 Glenn Price submitted a proposed condition for the Category 3 Plan to the Board Members (see recording for detailed presentation).

06:25:02 Brian Lavin responded to further questions from the Board Members (see recording for detailed presentation).

The following spoke neither for nor against the request:

Jeffery Brown, Assistant Director, Public Works, 444 S. 5th Street, Louisville, KY 40202

Summary of testimony of those neither for nor against:

06:29:39 Jeffery Brown stated that Public Works has been working with the applicant trying to resolve some issues but they really haven't found a common ground yet. Mr. Brown asked that this case be continued until they can find a final resolution because there are issues with pedestrian and cyclist safety. Mr. Brown responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

06:31:19 Glenn Price spoke in rebuttal (see recording for detailed presentation).

06:34:19 Brian Lavin spoke in regard to the issues addressed by Mr. Brown (see recording for detailed presentation).

06:35:33 Joe Reverman asked Mr. Brown if it would not be okay just to approve the Category 3 on condition that all these things are still worked out.

06:35:47 Mr. Brown asked to see the plan and asked if Transportation Planning has approved the plan.

06:36:00 Mr. Reverman stated there's no preliminary approval stamps on that yet, which is a little unusual but it has happened in the past.

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06:36:09 Mr. Brown stated this plan doesn't really address any of their concerns. Mr. Brown stated this was one of the first plans they reviewed and provided comments to the applicant.

06:36:18 Mr. Reverman stated their position was that since we were just dealing with some issues within the right-of-way that we could do it with just a Condition of Approval.

06:36:28 Mr. Brown stated it's obviously at the Board's discretion, but Public Works would recommend continuing the case, but it is absolutely at the Board's discretion.

06:36:48 Mr. Reverman stated the staff's position that all the changes that will be on the plan were within the public right-of-way, and they felt that would be something that would have to be addressed on the plan before it is approved and transmitted and the applicant would have to work that out with Public Works regardless. Mr. Reverman responded to questions from the Board Members (see recording for detailed presentation).

06:37:45 Board Members' deliberation

06:43:18 On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16DEVPLAN1125, does hereby **CONTINUE** the case to the August 15, 2016 Board of Zoning Adjustment meeting to allow the applicant time to work with Public Works dealing with the issues of sidewalks, valet area and bike lanes.

The vote was as follows:

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

Abstain: Member Howard

Absent: Chair Allendorf

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ADJOURNMENT

The meeting adjourned at approximately 4:23 p.m.

Chair

Secretary