

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

March 20, 2017

A meeting of the Louisville Metro Board of Zoning Adjustment was held on March 20, 2017 at 8:30 a.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Mike Allendorf, Chair
Betty Jarboe, Vice Chair
Rosalind Fishman, Secretary
Paul Bergmann
Lester Turner
Dean Tharp

Members Absent:

Lula Howard

Staff Members Present:

Brian Mabry, Planning & Design Supervisor
Emily Liu, Planning & Design Director (arrived at approximately 10:20 a.m.)
Joe Haberman, Planning & Design Manager
Jon Crumbie, Planning & Design Coordinator
Dante St. Germain, Planner I
Laura Mattingly, Planner I
Joel Dock, Planner I
John Carroll, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

MARCH 6, 2017 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:02:25 On a motion by Vice Chair Jarboe, seconded by Member Bergmann, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on March 6, 2017.

The vote was as follows:

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

Abstain: Member Tharp

Absent: Member Howard

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BUSINESS SESSION

CASE NUMBER 17VARIANCE1005

Request:	Variances from the required 3' side yard setback
Project Name:	971 Barret Avenue Garage
Location:	971 Barret Avenue
Owner:	Bette Jo Niemi
Applicant:	Graham Clark
Representative:	Graham Clark
Jurisdiction:	Louisville Metro
Council District:	8– Brandon Coan
Case Manager:	Dante St. Germain, Planner I

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

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

Agency Testimony:

00:03:19 Dante St. Germain presented the case and showed a Powerpoint presentation. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

NOTE: This case was opened for Public Hearing to allow testimony from the applicant.

The following spoke in favor of the request:

Graham Clark, 14 Hawthorne Hill, Louisville, KY 40204

Summary of testimony of those in favor:

00:07:39 Graham Clark responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 17VARIANCE1005

The following spoke in opposition of the request:

No one spoke.

00:09:06 Board Members' deliberation

00:09:23 On a motion by Member Fishman, seconded by Member Bergmann, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variances will not adversely affect the public health, safety or welfare as zero lot line development is not uncommon in the Traditional Neighborhood Form District, and

WHEREAS, the Board further finds that the requested variances will not alter the essential character of the general vicinity as zero lot line development exists on other properties in the immediate vicinity and this development will be in character with those properties, and

WHEREAS, the Board further finds that the requested variances will not cause a hazard or nuisance to the public as the garage will be constructed according to building code for zero lot line development, protecting the interests of the neighbors, and

WHEREAS, the Board further finds that the requested variances will not allow an unreasonable circumvention of the zoning regulations as zero lot line development is not uncommon in the neighborhood, and

WHEREAS, the Board further finds that the requested variances arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the lot in question is 25 feet in width, whereas most of the residential lots in the general vicinity are 30 to 40 feet in width, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the applicant to build a narrower garage that would be unable to fit two cars, and

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WHEREAS, the Board further finds that the structure will be constructed in accordance with the Kentucky Building Code, and

WHEREAS, the Board further finds that zero lot line variances exist throughout the original Highlands including property in immediate vicinity of lot, and

WHEREAS, the Board further finds that the variance seeks zero lot line in the rear area of a privately owned lot; it will not impact surrounding properties, and

WHEREAS, the Board further finds that the variance is consistent with the "as built existing" in the neighborhood, and

WHEREAS, the Board further finds that the lot is twenty-five feet wide, and

WHEREAS, the Board further finds that the variance will enable a two car garage to be constructed which will house two vehicles, and

WHEREAS, the Board further finds that the applicant is building a new home on a narrow vacant lot; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment, in Case Number 17VARIANCE1005, does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.E.5 for an accessory structure to encroach into the required side yards (**Requirement 3 ft., Request 0 ft., Variance 3 ft.**); (**Requirement 3 ft., Request 0 ft., Variance 3 ft.**), based on the Staff Report, the Standard of Review and Staff Analysis, the applicant's justification, the discussion and the presentation.

The vote was as follows:

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

Absent: Member Howard

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BUSINESS SESSION

CASE NUMBER 17CUP1001

Request: Modified Conditional Use Permit to allow a minor increase in the building area and cosmetic external renovations in a C-2 zoning district

Project Name: Norton Hospital

Location: 231 East Chestnut Street

Owner: Norton Hospital, Inc.

Applicant: Norton Hospital, Inc.

Representative: Sarah Beth Sammons

Jurisdiction: Louisville Metro

Council District: 4– Barbara Sexton Smith

Case Manager: Jon E. Crumbie, Planning and Design Coordinator

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

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

Agency Testimony:

00:11:33 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

00:15:25 Board Member's deliberation

00:15:38 On a motion by Vice Chair Jarboe, seconded by Member Tharp, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that based upon the information in the staff report and the evidence presented at the public hearing, the proposal meets the standards for granting the modified CUP as established in the Land Development Code; now, therefore be it

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CASE NUMBER 17CUP1001

RESOLVED, the Louisville Metro Board of Zoning Adjustment, in Case Number 17CUP1001, does hereby **APPROVE** the Modified Conditional Use Permit to allow renovation of the existing Norton Children's Hospital in a C-2 zoning district, based upon the Staff Report, the site plan, the Standard of Review and Staff Analysis, and **SUBJECT** to the existing Conditions of Approval.

Existing Conditions of Approval for Hospital (B-87-83)

The Board did **WAIVE** Section IV, D., 8., a. of the Conditional Use Permit section of the Zoning District Regulations. Item a. reads as follows:

a) All buildings and structures shall conform to the front, street side yard and rear yard requirements of the district in which they are located and shall be located at least 30 feet from any side property line.

1. The proposal shall be developed in strict compliance with the approved development plan.
2. The following addenda to the plan submitted shall be submitted to the staff of the Board for review and approval within 30 days of the public hearing on this case:
 - a) a plan showing the layout of a typical parking garage level, the total number of parking spaces provided in the garage, the location of the off-street loading berth, and the location and circulation of the emergency entrance to the hospital,
 - b) a side view drawing of the proposed overhead walkway showing the appropriate heights above grade.
3. The appropriate agreement with the City of Louisville shall be entered into to permit the overhead walkway to encroach into the right-of-way of Chestnut Street. A copy of the signed agreement shall be submitted to the staff of the Board prior to the issuance of any building permits for the proposed overhead walkway.
4. Prior to the issuance of any sign permits on the property, a plan showing the size and location of all proposed signs shall be submitted to the staff of the Board and approved.

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CASE NUMBER 17CUP1001

The vote was as follows:

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

Absent: Member Howard

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BUSINESS SESSION

CASE NUMBER 17CUP1012

Request:	Modified CUP
Project Name:	Terra View Trail
Location:	14105 Aiken Road
Owner:	Otte Family Limited Partnership
Applicant:	John Dougherty, Louisville Paving and Construction
Representative:	Bardenwerper, Talbott & Roberts, PLLC
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton
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:

00:17:21 Laura Mattingly presented the case and showed a Powerpoint presentation. Ms. Mattingly responded to questions from the Board Members (see staff report and recording for detailed presentation).

NOTE: This case was opened for Public Hearing to allow testimony from the applicant.

The following spoke in favor of the request:

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223

Summary of testimony of those in favor:

00:24:49 Nick Pregliasco spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 17CUP1012

The following spoke in opposition of the request:

No one spoke.

00:28:29 Board Members' deliberation

00:29:56 On a motion by Vice Chair Jarboe, seconded by Member Tharp, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal meets the comprehensive plan as the proposal is utilizing a vacant industrial site and adding a compatible use to an industrial area. The proposal is high intensity and is located along a minor arterial and is improving access to adjacent industrial properties by expanding a public right of way. There are no residential uses located adjacent that would be negatively affected by the proposed development, and

WHEREAS, the Board further finds that the proposed heavy equipment staging and storage is at a scale appropriate with the surrounding mixed industrial area, and has very limited impact on residential development, as access is not shared. The proposal provides appropriate transitions to adjacent properties through the use of landscape buffer yards, setbacks and screening. Setbacks and building heights are compatible with nearby properties. Therefore, the proposal is compatible with surrounding uses and the general character of the area, and

WHEREAS, the Board further finds that improvements to the site and right-of-way made necessary by the proposed development, such as transportation and drainage, have been adequately provided to serve the proposed use, and

WHEREAS, the Board further finds that (See Attachment 4 for all standards for major filling operations); as the proposed use is unrelated to the filling of the quarry and this modification of the Conditional Use Permit is being reviewed only as a condition of the original CUP, none of the standards apply; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment, in Case Number 17CUP1012, does hereby **APPROVE** the Modified Conditional Use Permit to allow for heavy equipment staging and storage, based upon the Staff Report, the site plan, the testimony and **SUBJECT** to the Existing Conditions of Approval.

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Existing Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (Including all notes thereon), the listed requirements for a fill operation, and any conditions imposed or waived by the Board. No further development shall occur on the site without prior review and approval by the Board.
2. Required agency approvals shall be filed, before transmittal occurs.
3. The owner/operator of the reclamation area will be monitored at the entry and exit point which will be gated and locked after hours.

The vote was as follows:

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

Absent: Member Howard

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BUSINESS SESSION

CASE NUMBER 17CUP1004

Request:	Modified Conditional Use Permit to allow construction of a structure that will house facilities to convert landfill gas from waste into Hi Btu gas for injection into an existing pipeline
Project Name:	Hi Btu Project
Location:	2673 Outer Loop
Owner:	Waste Management of Kentucky, LLC
Applicant:	Waste Management of Kentucky, LLC
Representative:	Greg Ehrhard
Jurisdiction:	Louisville Metro
Council District:	13– Vicki Welch
Case Manager:	Jon E. Crumbie, Planning and Design Coordinator

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

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

Agency Testimony:

00:31:47 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

NOTE: Mr. Carroll clarified that (1) the current LDC Section 4.2.22 standards listed on pages 4-7 of the staff report and the conditions of approval from Case No. B-28-85 on pages 11-12 of the staff report would apply to this site only in the event that this particular part of the property is used for landfill operations (i.e. an actual disposal site where refuse is deposited), and (2) the conditions of approval in Case No. B-83-74, B-176-89, and B-9-94 on pages 11-13 of the staff report would apply to this site only in the event that this particular part of the property is used as a borrow pit/earth excavation site.

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CASE NUMBER 17CUP1004

00:35:32 Board Members' deliberation

00:35:50 On a motion by Member Fishman, seconded by Vice Chair Jarboe, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that based upon the information in the Staff Report and the presentation at the Public Hearing that the proposal meets the standards for granting a modified CUP as established in the Land Development Code; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment, in Case Number 17CUP1004, does hereby **APPROVE** the Modified Conditional Use Permit to allow the construction of a building that will house facilities to convert landfill gas from waste disposal operations into Hi Btu gas for injection into an existing pipeline, based on the case summary, the previous cases noted, and the Standard of Review and Staff Analysis, on **CONDITION** that MSD approve the plans.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 16CUP1059

Request:	Conditional Use Permit to allow a proposed short term rental that is not the primary residence of the host in R-5A zoning district
Project Name:	Short Term Rental
Location:	1500 Edgewood Place
Owner:	Johanna and Peter Byck
Applicant:	Johanna and Peter Byck
Representative:	Johanna and Peter Byck
Jurisdiction:	Louisville Metro
Council District:	8– Brandon Coan
Case Manager:	Jon E. Crumbie, Planning and Design Coordinator

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

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

Agency Testimony:

00:39:38 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Johanna Byck, 1500 Edgewood Place, Louisville, KY 40205

Summary of testimony of those in favor:

00:42:54 Johanna Byck spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 16CUP1059

The following spoke in opposition of the request:

No one spoke.

00:48:14 Board Members' deliberation

00:50:13 On a motion by Vice Chair Jarboe, seconded by Member Tharp, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the applicable policies of the Comprehensive Plan, and

WHEREAS, the Board further finds that the underlying use of the property shall remain the same (single family dwelling). The proposal only involves allowing short term rentals within the existing dwelling unit. No additional development is proposed. As such, the proposal is compatible with the surrounding land uses with respect to height, bulk, scale, intensity, traffic, noise, odor, drainage, lighting and appearance, and

WHEREAS, the Board further finds that the underlying use of the property shall remain the same (single family dwelling). The proposal only involves allowing short term rentals within the existing dwelling unit. No additional development is proposed. MSD and Transportation Planning have approved the proposal, and

WHEREAS, the Board further finds that:

A short term rental of dwelling unit that is not the primary residence of the host in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 or R-8A district and a short term rental of any dwelling unit in a TNZD district may be allowed upon the granting of a Conditional Use Permit. In addition to any conditions of approval, a short term rental and its host shall meet the following requirements:

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.

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- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **The dwelling unit has 3 bedrooms which will allow a maximum of 10 occupants.**
- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted.
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **The property has parking on the street and in an attached garage.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1059, does hereby **APPROVE** the Conditional Use Permit to allow short term rental in an R-5A zoning district that is not the primary residence of the host, based on the Staff Report, testimony heard today and **SUBJECT** to the following Condition of Approval:

Condition of Approval:

1. The short term rental and its host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.

The vote was as follows:

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

Absent: Member Howard

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PUBLIC HEARING

CASE NUMBER 15VARIANCE1090

Request:	Variance to exceed maximum setback and height
Project Name:	Old Henry Crossings Lot 12
Location:	13906 Promenade Green Way
Owner:	OREO 3 LLC
Applicant:	OREO 3 LLC
Representative:	Vice Cox & Townsend PLLC; Land Design & Development
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton
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:

00:52:09 Joel Dock presented the case and showed a Powerpoint presentation. Mr. Dock responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jamie Cox, 2303 River Road, Suite 301, Louisville, KY 40206
Kevin Young, 503 Washburn Ave., Louisville, KY 40222

Summary of testimony of those in favor:

00:58:26 Jamie Cox spoke in favor of the request (see recording for detailed presentation).

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CASE NUMBER 15VARIANCE1090

00:59:52 Kevin Young spoke in favor of the request and showed a Powerpoint presentation. Mr. Young responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:
No one spoke.

01:02:34 Board Members' deliberation

01:03:40 Mr. Young responded to questions from the Board Members regarding building materials (see recording for detailed presentation).

01:05:42 Joel Dock responded to questions from the Board Members (see recording for detailed presentation).

01:05:56 Board Members' deliberation

01:06:15 On a motion by Vice Chair Jarboe, seconded by Member Tharp, the following resolution was adopted:

Variance from LDC Section 5.3.1.C.5 for structure on lot 12A to exceed the maximum setback; a variance of 210' on Promenade Green Way and 76' along High Wickham Place:

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 proposal is within an area of planned mixed-use development being served by private roadways and interconnected with adjacent development. All required screening/buffering is being provided from adjacent streets and residential property, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposal is within an area of planned mixed-use development and the layout and design of the proposed buildings are consistent within the context of the surrounding non-residential development, and

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WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposal is for office uses within an area of planned mixed-use development and the design is consistent with surrounding development, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the roadways are private and the proposed setback is consistent with surrounding development patterns, and

WHEREAS, the Board further finds that the variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as those setbacks which apply to the subject site apply to surrounding development in the same form district. However, the interwoven design of the proposed office development across the two lots creates a conflict with the zoning district regulations, 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 development is consistent with the surrounding development pattern within the planned mixed-use development. It does not appear that the proposal adversely affects the public health, safety, or welfare and no apparent nuisance or hazard would be created by the requested variances, 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; and

Variance from LDC Section 5.3.1.C.5 for structure on Lot 12B to exceed the maximum setback; a variance of 43' on Promenade Green Way and 205' along High Wickham Place:

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 proposal is within an area of planned mixed-use development being served by private roadways and interconnected with adjacent development. All required screening/buffering is being provided from adjacent streets and residential property, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposal is within an area of

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planned mixed-use development and the layout and design of the proposed buildings are consistent within the context of the surrounding non-residential development, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposal is for office uses within an area of planned mixed-use development and the design is consistent with surrounding development, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the roadways are private and the proposed setback is consistent with surrounding development patterns, and

WHEREAS, the Board further finds that the variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as those setbacks which apply to the subject site apply to surrounding development in the same form district. However, the interwoven design of the proposed office development across the two lots creates a conflict with the zoning district regulations, 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 development is consistent with the surrounding development pattern within the planned mixed-use development. It does not appear that the proposal adversely affects the public health, safety, or welfare and no apparent nuisance or hazard would be created by the requested variances, 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; and

Variance from LDC Section 5.5.6 to exceed the maximum height allowed per building incentive; resulting in a total height of 48':

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 proposal is within an area of planned mixed-use development and the request is for minimal height increase. All required screening/buffering is being provided from adjacent streets and residential property, and

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WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposal is within an area of planned mixed-use development and the layout and design of the proposed buildings are consistent within the context of the surrounding non-residential development, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposal is for office uses within an area of planned mixed-use development and the design is consistent with surrounding development, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the requested height increase is minimal, does not impact scenic corridors, and does not significantly increase the obstruction of any views beyond what is ordinarily permitted, and

WHEREAS, the Board further finds that the variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as those maximum heights which apply to the subject site apply to all surrounding development in the same 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 development is consistent with the surrounding development pattern within the planned mixed-use development. It does not appear that the proposal adversely affects the public health, safety, or welfare and no apparent nuisance or hazard would be created by the requested variance, 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, and

WHEREAS, the Board further finds that the variance will have no adverse impact because the majority of the building height for both building 6 and 7 is 45 ft. and meets the maximum allowed. The main entrance feature on both buildings is 48 ft. tall for prominence, to provide architectural variety and interest. The HVAC systems are located on the roof behind the 48 ft. parapet, and

WHEREAS, the Board further finds that the buildings in the general area are of similar number of stories and are generally similar in height, and

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WHEREAS, the Board further finds that the proposed building height variances being requested are minimal and will not be obvious to observers, and

WHEREAS, the Board further finds that the proposed building height variances being requested are minimal. The buildings are three stories which is allowed per section 5.5.6, and

WHEREAS, the Board further finds that the maximum allowed building heights for the Neighborhood Form District are relatively low for office buildings, and

WHEREAS, the Board further finds that the building facades would not be aesthetically pleasing and proportional if a uniform building height of 45 ft. is provided, and

WHEREAS, the Board further finds that relief is being sought for a proposed development; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment, in Case Number 15VARIANCE1090, does hereby **APPROVE** Variance from LDC Section 5.3.1.C.5 for structure on lot 12A to exceed the maximum setback; **a variance of 210' on Promenade Green Way and 76' along High Wickham Place**, Variance from LDC Section 5.3.1.C.5 for structure on lot 12B to exceed the maximum setback; **a variance of 43' on Promenade Green Way and 205' along High Wickham Place**, and Variance from LDC Section 5.5.6 to exceed the maximum height allowed per building height incentive; **resulting in a total height of 48'**, based upon the Staff Report, testimony of the applicant, and the applicant's justification.

The vote was as follows:

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

Absent: Member Howard

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PUBLIC HEARING

CASE NUMBER 17VARIANCE1007

Request:	Variance from the required 12' street side yard setback
Project Name:	3400 Grandview Ave Addition
Location:	3400 Grandview Ave
Owner:	Gregory Schanding
Applicant:	Gregory Schanding
Representative:	Gregory Schanding
Jurisdiction:	City of St. Matthews
Council District:	9 – Bill Hollander
Case Manager:	Dante St. Germain, Planner I

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

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

Agency Testimony:

01:08:10 Dante St. Germain presented the case and showed a Powerpoint presentation. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Drew Butler, 9301 Hurstbourne Ln., Louisville, KY 40220

Summary of testimony of those in favor:

01:14:37 Drew Butler spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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01:15:53 Board Members' deliberation

01:16:24 On a motion by Member Fishman, 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 as the addition will be in line with the existing structures on the property, which have caused no known adverse effects, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the addition will be in line with the existing structures, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the addition will be constructed in line with the existing structures, which have caused no known 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 addition will be placed in line with the other structures on 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 as the lot is nonconforming in both width and area for the R-4 zoning district, and the existing structures encroach into the required street side yard, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by preventing the applicant from aligning the addition with the side of the existing residence, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the existing primary structure was built in 1948, prior to the adoption of the zoning regulation, and

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WHEREAS, the Board further finds that the proposed structure is indigenous to the existing structure and will aesthetically complement the existing structure, and

WHEREAS, the Board further finds that there is no hazard or nuisance, and

WHEREAS, the Board further finds that the proposed structure is sitting in the same place as the existing and therefore is consistent with the setbacks throughout the area; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment, in Case Number 17Variance1007, does hereby **APPROVE** Variance from City of St. Matthews Development Code Section 4.6.C.2.c for an addition to encroach into the required street side yard (**Requirement 12 ft., Request 5.43 ft., Variance 6.57 ft.**), based upon the presentation, the Standard of Review and Staff Analysis and Additional Considerations, the discussion, and the applicant's justification.

The vote was as follows:

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

Absent: Member Howard

01:18:00 Meeting was recessed.

01:18:11 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 17VARIANCE1008

Request:	Variance from the required 30' street side yard setback and variance to allow a fence in the required street side yard to exceed 4' in height
Project Name:	3947 Grandview Ave Garage and Fence
Location:	3947 Grandview Ave
Owner:	Craig Rabeneck
Applicant:	Craig Rabeneck
Representative:	Craig Rabeneck
Jurisdiction:	City of St. Matthews
Council District:	9 – Bill Hollander
Case Manager:	Dante St. Germain, Planner I

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

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

Agency Testimony:

01:18:40 Dante St. Germain presented the case and showed a Powerpoint presentation. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Craig Rabeneck, 3947 Grandview Avenue, Louisville, KY 40207

Summary of testimony of those in favor:

01:25:33 Craig Rabeneck spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

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No one spoke.

01:31:09 Board Members' deliberation

01:32:24 On a motion by Vice Chair Jarboe, seconded by Member Bergmann, the following resolution was adopted:

Variance from City of St. Matthews Development Code Section 4.6.C.2.c for a garage to encroach into the required 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 as the garage will be in line with the existing residence on the property, which has caused no known adverse effects, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as there are other garages in the area which encroach into the required yards, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the garage will be set back far enough from the right-of-way to not obstruct vision for drivers emerging from the alley, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the garage will be placed in line with the primary structure, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as most nearby corner lots have a different zoning district and therefore have different setback requirements, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by preventing the applicant from aligning the garage with the existing residence, 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 as the existing primary structure was built in 1924, prior to the adoption of the zoning regulation, and

WHEREAS, the Board further finds that the proposed garage will be over 40' from Fairfax Avenue, and set in 1 ½ ft. from the side of the house which meets Metro Louisville regulations. There will be no impact on the view of drivers from the alley and/or Fairfax Avenue, and

WHEREAS, the Board further finds that the proposed garage is a personal garage like other framed structures in the area and on the alley, and

WHEREAS, the Board further finds that the garage will not hinder the view of drivers on the alley or Fairfax Avenue. Entrance from the garage will be on the alley, according to Metro Department of Transportation rules, and

WHEREAS, the Board further finds that the house was built in the 1920's and the proposed garage will be aesthetic to the existing house, and

WHEREAS, the Board further finds that the house was built 13.3' from the property line. The garage will be behind the house (see site plan) facing alley with car entrance, and

WHEREAS, the Board further finds that the proposed garage would fit the applicant's needs and the character of the neighborhood, and

WHEREAS, the Board further finds that circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought; and

Variance from City of St. Matthews Development Code Section 9.1.B.1.a for a fence to exceed 4' in height in a 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 as the fence will be 20 feet from the rear property line so as not to interfere with visual clearance at the alley, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as there are other fences in the area which are of a similar height, and

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WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the fence will not obstruct vision at the alley and is needed to provide privacy, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the fence is needed for privacy in the back yard, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the properties across Fairfax Avenue face the subject property's rear yard, a circumstance that is not present for the other residential corner lots in the vicinity, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by preventing the applicant from providing privacy to the back yard of the property, and

WHEREAS, the Board further finds that the fence sits back 32' from the street behind existing pear trees, and

WHEREAS, the Board further finds that the fence will be like other fences in the area, and

WHEREAS, the Board further finds that the fence will be within property lines according to Metro Louisville regulations. There is no sidewalk on this side of the street; open green area approximately 32' from proposed fence to street, and

WHEREAS, the Board further finds that the fence will be 3' from the property line and 6' tall like neighboring fences, and

WHEREAS, the Board further finds that this is a large double lot exposed to apartments and condos including view from Shelbyville Road offering no privacy and/or security of personal property, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would limit privacy to apartments and condos and limit the applicant the ability to provide a safe place for grandchildren and pets to play; now, therefore be it

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CASE NUMBER 17VARIANCE1008

RESOLVED, the Louisville Metro Board of Zoning Adjustment, in Case Number 17VARIANCE1008, does hereby **APPROVE** Variance from City of St. Matthews Development Code Section 4.6.C.2.c for a garage to encroach into the required street side yard (Requirement 30 ft., Request 15 ft., Variance 15 ft.), and Variance from City of St. Matthews Development Code Section 9.1.B.1.a for a fence to exceed 4' in height in a street side yard (**Requirement 4 ft., Request 6 ft., Variance 2 ft.**), based upon the applicant's testimony and justification statement and the Staff Report.

The vote was as follows:

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

Absent: Member Howard

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PUBLIC HEARING

CASE NUMBER 16VARIANCE1100

Request:	Variances for street side yard and side yard setback
Project Name:	221 Notting Hill Blvd
Location:	221 Notting Hill Blvd
Owner:	Lavon & Anissia Crayton
Applicant:	Lavon & Anissia Crayton
Representative:	Lavon & Anissia Crayton
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton
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:

01:34:11 Joel Dock presented the case and showed a Powerpoint presentation. Mr. Dock responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Lavon and Anissia Crayton, 221 Notting Hill Blvd., Louisville, KY 40245

Summary of testimony of those in favor:

01:40:38 Lavon and Anissia Crayton spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:44:12 **NOTE:** Joel Dock stated he had received some emails in opposition to the proposal after the writing of the Staff Report. Mr. Dock provided copies to the Board Members (see recording for detailed presentation).

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01:46:13 Mr. and Mrs. Crayton responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

Scott Welch, 301 Middletown Park Place, Louisville, KY 40243

Scott Yates, Lot 43 Notting Hill, Louisville, KY 40245

Kevin Murphy, 219 Notting Blvd., Louisville, KY 40245

Summary of testimony of those in opposition:

01:48:00 Scott Welch spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:51:46 Scott Yates spoke in opposition of the request (see recording for detailed presentation).

01:53:27 Kevin Murphy spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

01:56:51 Mr. and Mrs. Crayton spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

01:58:40 Joel Dock responded to questions from the Board Members (see recording for detailed presentation).

02:02:50 Mr. and Mrs. Crayton spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

02:07:55 **Board Members' deliberation**

02:13:40 On a motion by Member Fishman, seconded by Member Turner, the following resolution was adopted:

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CASE NUMBER 16VARIANCE1100

Variance of LDC Section 5.1.12.B.2.a.i.1 for encroachment into the infill established street side yard along Westbourne Grove Drive; a variance to allow a minimum setback of 22':

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 encroachment does not impact sight lines for vehicular or pedestrian traffic approaching the intersection of Notting Hill Blvd and Westbourne Grove Drive. All applicable permits pertaining to the construction of the garage and access to the public road will be required, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the garage is attached to the primary residence and compatible building materials with the home and nearby residences will be used, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposal is for a detached garage for a single-family home in a residential subdivision and does not impact the safe movement of people or significantly obstruct views which are ordinarily expected, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed setback of the garage is the result of utility services and equipment being located immediately to the rear of the proposed garage, and

WHEREAS, the Board further finds that the variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the proposed setback of the garage is the result of utility services and equipment being located immediately to the rear of the proposed 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 as it does not appear that the proposal adversely affects the public health, safety, or welfare and no apparent nuisance or hazard would be created by the requested variance, 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

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CASE NUMBER 16VARIANCE1100

RESOLVED, the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1100, does hereby **APPROVE** Variance of LDC Section 5.1.12.B.2.a.i.1 for encroachment into the infill established street side yard along Westbourne Grove Drive; **a variance to allow a minimum setback of 22'**, based upon the presentation, the Standard of Review and Staff Analysis for Variances and Additional Considerations, the discussion, and the variance justification submitted by the applicant.

The vote was as follows:

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

Absent: Member Howard

02:15:26 On a motion by Member Fishman, seconded by Member Turner, the following resolution was adopted:

Variance of LDC Section 5.3.1.C for encroachment into the required 5' side yard; a variance of 3.5':

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 encroachment does not impact sight lines for vehicular or pedestrian traffic approaching the intersection of Notting Hill Blvd and

Westbourne Grove Drive. All applicable permits pertaining to the construction of the garage and access to the public road will be required, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the garage is attached to the primary residence and compatible building materials with the home and nearby residences will be used, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposal is for a detached garage for a single-family home in a residential subdivision and does not impact the safe movement of people or significantly obstruct views which are ordinarily expected, and

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WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed street side yard setback of the garage is the result of utility services and equipment being located immediately to the rear of the proposed garage. Due to the street side yard setback and location of the garage with respect to the angle of the side property line, the side yard setback is impacted. The dimension of the encroachment decreases as the garage wall moves to the rear. The rear corner (North) of the garage is 5' from the side property line, and

WHEREAS, the Board further finds that the variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the proposed setback of the garage is the result of utility services and equipment located immediately to the rear of the proposed 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 as it does not appear that the proposal adversely affects the public health, safety, or welfare and no apparent nuisance or hazard would be created by the requested variance, 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, the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1100, does hereby **APPROVE** Variance of LDC Section 5.3.1.C for encroachment into the required 5' side yard; **a variance of 3.5'**, based upon the presentation, the Staff Report Standard of Review and Analysis for Variances and Additional Considerations, the discussion and the variance justification from the applicant.

The vote was as follows:

Yes: Members Fishman, Turner, Tharp, Bergmann, and Chair Allendorf

No: Vice Chair Jarboe

Absent: Member Howard

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PUBLIC HEARING

CASE NUMBER 16CUP1064

Request: Conditional Use Permit to allow a proposed short term rental that is not the primary residence of the host in R-5B zoning district

Project Name: Short Term Rental

Location: 2110 Edgeland Avenue

Owner: Deirdre Seim

Applicant: Deirdre Seim

Representative: Deirdre Seim

Jurisdiction: Louisville Metro

Council District: 8– Brandon Coan

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:

02:17:07 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Deirdre Seim, 937 Cherokee Road, Louisville, KY 40204

Summary of testimony of those in favor:

02:20:00 Deirdre Seim spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

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CASE NUMBER 16CUP1064

No one spoke.

02:25:26 Board Members' deliberation

02:25:46 On a motion by Vice Chair Jarboe, seconded by Member Bergmann, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the applicable policies of the Comprehensive Plan, and

WHEREAS, the Board further finds that the underlying use of the property shall remain the same (single family dwelling). The proposal only involves allowing short term rentals within the existing dwelling unit. No additional development is proposed. As such, the proposal is compatible with the surrounding land uses with respect to height, bulk, scale, intensity, traffic, noise, odor, drainage, lighting and appearance, and

WHEREAS, the Board further finds that the underlying use of the property shall remain the same (single family dwelling). The proposal only involves allowing short term rentals within the existing dwelling unit. No additional development is proposed. MSD and Transportation Planning have approved the proposal, and

WHEREAS, the Board further finds that:

A short term rental of dwelling unit that is not the primary residence of the host in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 or R-8A district and a short term rental of any dwelling unit in a TNZD district may be allowed upon the granting of a Conditional Use Permit. In addition to any conditions of approval, a short term rental and its host shall meet the following requirements:

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **The dwelling unit has 4 bedrooms which will allow a maximum of 12 occupants.**

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- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted.
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **The property has parking on the street and in a detached garage.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1064, does hereby **APPROVE** the Conditional Use Permit to allow short term rental in an R-5B zoning district that is not the primary residence of the host, based upon the Staff Report and the testimony of the applicant, and **SUBJECT** to the following Condition of Approval:

Condition of Approval:

- 1. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinance.

The vote was as follows:

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

Absent: Member Howard

02:27:16 Meeting was recessed.

02:27:32 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 16CUP1084

Request:	Modification of an approved Conditional Use Permit to allow an increase in the number of units
Project Name:	Chamberlain Senior Care Facility
Location:	5217 Chamberlain Lane
Owner:	Chamberlain Senior Care, LLC
Applicant:	Chamberlain Senior Care, LLC
Representative:	William Bardenwerper
Jurisdiction:	Louisville Metro
Council District:	16 – Scott Reed
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:

02:28:00 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223
Kent Gootee, 5151 Jefferson Blvd., Louisville, KY 40219
Jon Baker, 500 W. Jefferson St., Suite 2800, Louisville, KY 40202
David Tomes, 9418 Norton Commons Blvd., Prospect, KY 40059
Marc Marcum, 8724 Featherbell Blvd., Prospect, KY 40059
Andrew Vecellio, 9545 Kenwood Road, Suite 402, Cincinnati, OH 45243
Chris Longwell, 9545 Kenwood Road, Suite 402, Cincinnati, OH 45243

Summary of testimony of those in favor:

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NOTE: Andrew Vecellio and Chris Longwell signed in but did not speak.

02:34:42 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).

02:46:30 Kent Gootee spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:48:53 Nick Pregliasco spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:52:33 Kent Gootee responded to questions from the Board Members (see recording for detailed presentation).

02:54:58 Jon Baker spoke in favor of the request (see recording for detailed presentation).

03:02:25 David Tomes spoke in favor of the request and provided handouts to the Board Members (see recording for detailed presentation).

03:11:26 Marc Marcum spoke in favor of the request (see recording for detailed presentation).

03:12:45 David Tomes spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:

Tom Fitzgerald, 1600 Dundee Way, Louisville, KY 40205

Bonnie Betz Loeb, 6353 Limewood Circle, Louisville, KY 40222

Barbara Kelly, 6009 Mint Spring Branch Road, Prospect, KY 40059

Alice Gunnison, 7849 Wolf Pen Branch Road, Prospect, KY 40059

Arnold Zegart, 7800 Wolf Pen Branch Road, Prospect, KY 40059

Marsha Weinstein, 5608 Wolf Pen Trace, Prospect, KY 40059

Summary of testimony of those in opposition:

NOTE: Marsha Weinstein signed in but did not speak.

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03:14:58 Tom Fitzgerald spoke in opposition of the request. Mr. Fitzgerald responded to questions from the Board Members (see recording for detailed presentation).

03:38:39 Bonnie Betz Loeb spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

03:44:28 Barbara Kelly spoke in opposition of the request (see recording for detailed presentation).

03:45:58 Alice Gunnison spoke in opposition of the request (see recording for detailed presentation).

03:47:23 Arnold Zegart spoke in opposition of the request (see recording for detailed presentation).

03:48:01 Tom Fitzgerald spoke in opposition of the request (see recording for detailed presentation).

NOTE: Chair Allendorf called on Jeffrey Brown, Assistant Director of Louisville Metro Public Works, to provide information and respond to questions from the Board Members.

03:49:05 Jeffrey Brown spoke in regard to the proposed deceleration lane and responded to questions from the Board Members (see recording for detailed presentation).

03:54:30 Nick Pregliasco requested Mr. Brown to provide information regarding Louisville Metro Public Work's position regarding having a gate at the entrance (see recording for detailed presentation).

03:54:59 Mr. Brown responded to Mr. Pregliasco's question and spoke in response to questions from the Board Members and Mr. Fitzgerald (see recording for detailed presentation).

REBUTTAL:

03:58:38 Nick Pregliasco spoke in rebuttal (see recording for detailed presentation).

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04:01:45 Kent Gootee spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

04:07:00 Nick Pregliasco and Kent Gootee spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

04:17:15 Board Members' deliberation

04:38:00 On a motion by Member Fishman, seconded by Member Bergmann, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposed development of the site will be consistent and compatible with the character of the area. The Neighborhood Form District is characterized by predominantly residential uses that vary from low to high density and blend compatibly into the existing landscape and neighborhood areas. The Neighborhood Form District should contain diverse housing types in order to provide housing choices for differing ages and incomes, as well as provide for accessibility and connectivity between adjacent uses and neighborhoods. The site will incorporate low level lighting and adequate landscaping and buffering from adjoining properties, and

WHEREAS, the Board further finds that the proposal is compatible with the general character of the surrounding neighborhoods in terms of height, scale, intensity, lighting, and appearance, and

WHEREAS, the Board further finds that the proposal has been reviewed by Public Works and MSD and both have approved the plan. The Worthington Fire District did not comment on the proposal, and

WHEREAS, the Board further finds that:

There are 3 items in the listed requirements for home for the infirm or aged. Item A. and item B. will be met.

Nursing Homes may be permitted in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements.

A. All buildings shall be located at least 30 feet from any property line.

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- B. 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.
- C. The Board of Zoning Adjustments shall add any restrictions to mitigate nuisances or adverse effects; now therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1084, does hereby **APPROVE** Modification of a Conditional Use Permit to allow an increase in the number of units and square footage for the 2nd and 3rd floors by 7,000 square feet for a new total of 295,719 square feet, based upon the discussion, the Standard of Review and Staff Analysis, and **SUBJECT** to the existing Conditions of Approval, **NOTING** that Access #1 refers to the Chamberlain Lane entrance.

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 infirm and aged without further review and approval by the Board.
- 3. A sign shall be posted along Access #1 that states "Employee and Delivery Access only."

The vote was as follows:

Yes: Members Fishman, Turner, Bergmann, and Chair Allendorf

No: Member Tharp and Vice Chair Jarboe

Absent: Member Howard

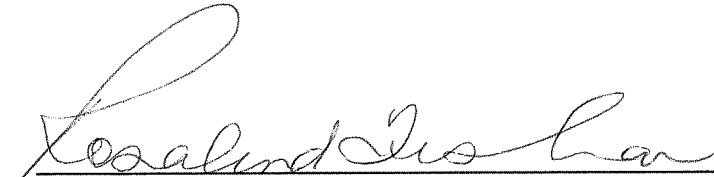
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ADJOURNMENT

The meeting adjourned at approximately 1:35 p.m.



Chair



Secretary