

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT
March 6, 2023**

A meeting of the Louisville Metro Board of Zoning Adjustment was held on March 6, 2023 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members present:

Sharon Bond, Chair
Richard Buttorff, Vice Chair
Kimberly Leanhart, Secretary
Jan Horton
Lula Howard
Yani Vozos

Members absent:

Brandt Ford

Staff Members present:

Emily Liu, Planning & Design Director
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Molly Clark, Planner II
Heather Pollock, Planner I
Amy Brooks, Planner I
Laura Ferguson, Legal Counsel
Pamela Brashear, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

FEBRUARY 20, 2023 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

On a motion by Member Buttorff, seconded by Member Howard, the following resolution was adopted.

RESOLVED, that the Board of Zoning Adjustment does hereby **APPROVE** the minutes of its meeting conducted on February 20, 2023.

The vote was as follows:

YES: Members Buttorff, Horton, Howard, Leanhart and Bond

NOT PRESENT FOR THIS CASE: Member Ford

ABSTAINING: Member Vozos

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BUSINESS SESSION

CASE NO. 22-MCUP-0011

Request: A Modified Conditional Use Permit for a 3,617 square feet addition to an existing hospital
Project Name: UofL Mary and Elizabeth Hospital Addition
Location: 1850 Bluegrass Avenue
Owner/Applicant: UofL Health Louisville, Inc. / Crunk Engineering
Jurisdiction: Louisville Metro
Council District: 15 – Jennifer Chappell
Case Manager: Molly Clark, Planner II

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

Discussion

00:05:35 Molly Clark stated the proposal is a modified CUP for an addition to a hospital for 2 operating rooms (see recording for detailed presentation).

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.

A Modified Conditional Use Permit for a 3,617 SF addition to an existing a hospital (Land Development Code Hospital/Medical Clinic CUP (LDC) 4.2.29)

On a motion by Member Howard, seconded by Member Leanhart, the following resolution based on the Standard of Review and Staff Analysis and testimony from Molly Clark today was adopted.

WHEREAS, the proposed addition will be consistent with the Comprehensive Plan 2040. The addition will be a less than 1% increase in building footprint and should have a low impact to adjoining property owners; and

WHEREAS, the proposed development is compatible with surrounding land uses as the subject property is bound by a collector level road to the north and several local roads to the east; and

WHEREAS, the Board finds, the subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed and approved the proposal; and

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CASE NO. 22-MCUP-0011

WHEREAS, the Board further finds 4.2.29 Hospitals and medical clinics may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements:

A. In form districts where nonresidential freestanding signs are not permitted, a single freestanding on-premise sign, not exceeding 80 square feet in area and not exceeding 10 feet in height, may be placed at each major entrance. Attached signs shall be designed in accordance with form district requirements, but the Board reserves the right to approve the size and location of all attached signs. **No signage being proposed with this request.**

B. All buildings and structures shall be at least 30 feet from any property line. **The proposed structure will be more than 30 feet from the nearest property line.**

C. Medical clinics shall provide an indoor waiting area(s) for clients. The waiting area shall be large enough to accommodate the clients arriving for services. **This requirement will be met.**

D. Parking for medical clinics shall be adequate to accommodate the maximum number of clients expected to be at the site at one time. **The proposed parking meets the minimum requirements for a hospital.**

E. Such facilities shall be located on or near a collector or arterial street with reasonable access to public transportation. **Bluegrass Avenue is a collector level road.**

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Modified Conditional Use Permit for a 3,617 square foot addition to an existing a hospital (Land Development Code Hospital/Medical Clinic CUP (LDC) 4.2.29), **SUBJECT** to the following Conditions of Approval:

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

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

The vote was as follows:

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YES: Members Buttorff, Horton, Howard, Leanhart, Vozos and Bond
NOT PRESENT AND NOT VOTING: Member Ford

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PUBLIC HEARING

CASE NO. 22-VARIANCE-0152

Request: A Variance to Allow the Principal Structure to Encroach into the Street Side Yard Set Back and a Variance to Allow a Fence to Exceed the Maximum Height in the Street Side Yard Set Back - **TO BE CONTINUED TO A DATE UNCERTAIN**

Project Name: Vim Drive Variance
Location: 1370 Vim Drive
Owner/Applicant: Maria Escalante
Jurisdiction: Louisville Metro
Council District: 21 - Betsy Ruhe
Case Manager: Amy Brooks, 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 was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:09:33 Amy Brooks said the applicant has withdrawn the application.

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.

NO VOTE

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PUBLIC HEARING

CASE NO. 22-NONCONFORM-0032

Request: Non-Conforming rights application to allow a change in Non-Conforming rights from a convenience store to a duplex
Project Name: Beecher Street Nonconformance
Location: 500 Beecher Street
Owner: Derrick Tiller
Applicant: Sharon Bell
Jurisdiction: Louisville Metro
Council District: 15 - Jennifer Chappell
Case Manager: Amy Brooks, 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 was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:10:03 Amy Brooks discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Sharon Gazaway-Bell, Buckner Real Estate Services, 231 Breckenridge Lane, Louisville, Ky. 40207

Summary of testimony of those in favor:

00:14:04 Sharon Gazaway-Bell said the owner wants to rehab the building and make it look more residential. It will be a better use because there's a high demand for apartments and homes in the city (see recording for detailed presentation).

Deliberation:

00:15:47 Board of Zoning Adjustment deliberation.

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.

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PUBLIC HEARING

CASE NO. 22-NONCONFORM-0032

Non-Conforming rights application to allow a change in Non-Conforming rights from a convenience store to a duplex

On a motion by Member Howard, seconded by Member Vozos, the following resolution was adopted based on the need for attainable housing within the neighborhood and testimony heard today.

WHEREAS, the Board finds, the proposed nonconforming use, a duplex, is in a more restrictive classification than the non-conforming use of convenience store which was granted in 2019. Convenience stores are located in C-1 and higher zoning districts while two family dwelling units are allowed by right in R-5B which is more restrictive than commercial zoning; and

WHEREAS, the Board further finds the new nonconforming use would be no more odious or offensive to surrounding properties than the tavern/bar and convenience grocery usage on this site. The new proposed use would generate less traffic and noise than a convenience grocery. In fact, the proposed usage is typically located in less intensive zoning classifications than a convenience grocery.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Non-Conforming rights application to allow a change in Non-Conforming rights from a convenience store to a duplex because of the need for attainable housing within the neighborhood and the proposed use is less intense than a commercial use.

The vote was as follows:

YES: Members Buttorff, Horton, Howard, Leanhart, Vozos and Bond

NOT PRESENT AND NOT VOTING: Member Ford

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PUBLIC HEARING

CASE NO. 22-CUP-0392

Request: Conditional Use Permit for short term rental of a dwelling unit that is not the primary residence of the host
Project Name: Riveroaks Lane Short Term Rental
Location: 3925 Riveroaks Lane
Owner: 3925 Riveroaks LLC
Applicant: Alyssa Lewis
Representative: Michael Marks
Jurisdiction: Louisville Metro
Council District: 17- Markus Winkler
Case Manager: Amy Brooks, 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 was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:18:19 Amy Brooks discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Michael Marks, 2933 Bowman Avenue, Louisville, Ky. 40205

Summary of testimony of those in favor:

00:21:21 Michael Marks said the applicant hasn't used the proposed property as a primary residence in years. The family will be moving back next week to manage and host the short-term rental as they have experience and will live within 25 miles (see recording for detailed presentation).

Deliberation:

00:28:25 Board of Zoning Adjustment deliberation.

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.

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PUBLIC HEARING

CASE NO. 22-CUP-0392

Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in an R-4 zoning district and Neighborhood Form District

On a motion by Member Vozos, seconded by Member Buttorff, the following resolution based on the Standard of Review and Staff Analysis, discussion, the fact that there are no other CUP's in the 600-foot area and no neighborhood opposition was adopted.

WHEREAS, the proposal does not conflict with Comprehensive Plan policies; and

WHEREAS, when appropriately managed, the proposed use is compatible with surrounding development and land uses; and

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

WHEREAS, the Board further finds 4.2.63 Short Term Rental Term Rental of a dwelling unit that is not the primary residence of the host or the Short Term Rental of a condominium unit that is 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 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. **The applicant has been informed of this requirement.**

B. The dwelling unit shall be limited to a single short-term rental contract at a time. **The applicant has been informed of this requirement.**

C. At no time shall more persons reside in the short-term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **The subject property is smaller than two acres. The applicant states that the residence has 3 bedrooms that will allow a maximum number of 8 guests.**

D. The property on which the short-term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short-term rental that required

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a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, within 600' of the subject property, there are no properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host.**

E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short-term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short-term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short-term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short-term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short-term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The applicant has been informed of this requirement.**

F. Food and alcoholic beverages shall not be served by the host to any guest. **The applicant has been informed of this requirement.**

G. Outdoor signage which identifies the short-term rental is prohibited in residential zoning districts. **The applicant has been informed of this requirement.**

H. There shall be a sufficient amount of parking available for 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. **There appears to be enough room for two vehicles on the driveway and an available detached garage.**

I. The short-term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances. **The applicant has been informed of this requirement.**

J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the

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Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief. **The applicant has been informed of this requirement.**

K. Prior to commencement of any short-term rental on the subject property, the host shall register the short-term rental pursuant to the Louisville Metro Code of Ordinances. If the short-term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void. **The applicant has been informed of this requirement.**

L. An active registration for the short-term rental, as required by the Louisville Metro Code of Ordinances, shall be maintained. No short-term rentals may take place unless the registration is active and in the name of the current host and property owner. If the registration is not renewed and lapses for six months, or in the event of a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by this Land Development Code. **The applicant has been informed of this requirement.**

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow short-term rental of dwelling unit that is not the primary residence of the host in an R-4 zoning district and Neighborhood Form District because there are no other CUP's in the 600-foot area and no neighborhood opposition, **SUBJECT** to the following Condition of Approval:

1. The conditional use permit for this short-term rental approval shall allow up to 3 bedrooms (with a maximum of 8 guests at any one time). Prior to use, bedrooms must meet all occupancy requirements set forth in Louisville Metro Code of Ordinances. A modification of the conditional use permit shall be required to allow additional bedrooms.

The vote was as follows:

YES: Members Buttorff, Horton, Leanhart, Vozos and Bond

NO: Member Howard

NOT PRESENT AND NOT VOTING: Member Ford

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PUBLIC HEARING

CASE NO. 22-CUP-0396

Request: Conditional Use Permit for Short Term Rental of a dwelling unit that is not the primary residence of the host in the TNZD Zoning District
Project Name: S. First Street Short Term Rental
Location: 1219 South 1st Street
Owner: Daniel and Mary Assef
Applicant: Daniel Assef
Jurisdiction: Louisville Metro
Council District: 6- Phillip Baker
Case Manager: Heather Pollock, 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 was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:30:45 Heather Pollock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Daniel Assef, 1219 South 1st Street, Louisville, Ky. 40203

Summary of testimony of those in favor:

00:35:36 Daniel Assef said his family has owned the house since 1953 and he has no intentions of moving. The short-term rental will supplement his retirement and he will live on the property to manage it. There is a 4-car garage as well as off-street parking (see recording for detailed presentation).

Joe Haberman answered questions of Daniel Assef regarding dwelling units (see recording for detailed presentation).

Deliberation:

00:53:34 Board of Zoning Adjustment deliberation.

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.

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PUBLIC HEARING

CASE NO. 22-CUP-0396

Conditional Use Permit for Short Term Rental of a dwelling unit that is not the primary residence of the host in the TNZD Zoning District

On a motion by Member Howard, seconded by Member Horton, the following resolution based on the testimony heard today and the testimony from the applicant was not justification enough to give relief from Item D was adopted.

WHEREAS, the Board finds, 4.2.63 D, the property on which the short-term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short-term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, within 600' of the subject property, there are 6 properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host. The applicant is requesting relief to the provision in accordance with LDC Section 4.2.2.B. The applicant's justification for relief is attached to this agenda item. That applicant has agreed to a condition to live in the primary unit on the lot. If the Board does not grant relief, the application does not meet all of the listed requirements and the conditional use permit cannot be approved. There is 1 property with an approved conditional use permit that is the primary residence of the host and not subject to this standard because this CUP includes a condition of approval that the unit will be the primary residence of the host. (19-CUP-0235).**

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the Conditional Use Permit to allow Short Term Rental of a dwelling unit that is not the primary residence of the host in the TNZD Zoning District because there are many short-term rentals within 600-feet and there is no relief for Item D.

The vote was as follows:

YES: Members Horton, Howard, Leanhart and Bond

NO: Members Buttorff and Vozos

NOT PRESENT AND NOT VOTING: Member Ford

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PUBLIC HEARING

CASE NO. 22-CUP-0397

Request: Conditional Use Permit for Short Term Rental of a dwelling unit that is not the primary residence of the host
Project Name: Ridgeview Avenue Short Term Rental
Location: 2418 Ridgeview Avenue
Owner/Applicant: Shaheen Farooq
Representative: Slava Furs
Jurisdiction: Louisville Metro
Council District: 18 - Marilyn Parker
Case Manager: Heather Pollock, 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 was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:00:50 Heather Pollock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Slava Furs, 6928 Colrain Circle, Louisville, Ky. 40258

Summary of testimony of those in favor:

01:03:45 Slava Furs said the owner plans on renting to first responders. The owners live in N.Y. but have 2 candidates for managing the property (see recording for detailed presentation).

The following spoke in opposition to this request:

Rebecca Wells, 214 Bon Air Avenue, Louisville, Ky. 40220

Summary of testimony of those in opposition:

01:09:15 Rebecca Wells said there's very little traffic and would like it to stay that way. Other concerns include: trash, noise, safety, loss of value and ability to use one's own yard. It will be like living next door to a hotel (see recording for detailed presentation).

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Rebuttal:

01:17:22 Slava Furs said he has the phone numbers for neighbors and there will be rules for renters to follow. The proposal is not a hotel (see recording for detailed presentation).

Deliberation:

01:23:58 Board of Zoning Adjustment deliberation.

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.

Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in the R-5 single family zoning district and Neighborhood form district

On a motion by Member Leanhart, seconded by Member Horton, the following resolution based on the emails received from the opposition, the owner is inattentive and did not attend the neighborhood meeting, it's out of character with the area and testimony heard today was adopted.

WHEREAS, the Board finds that the proposal is not compatible with the surrounding development because it is unclear it will be appropriately managed, and

WHEREAS, the Board further finds that the proposal is not in character with the surrounding area.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in the R-5 single family zoning district and Neighborhood form district based on the emails received from the opposition, the owner is inattentive and did not attend the neighborhood meeting and it's out of character with the area.

The vote was as follows:

YES: Members Buttorff, Horton, Howard, Leanhart, Vozos and Bond
NOT PRESENT AND NOT VOTING: Member Ford

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DISCUSSION: HEARING OFFICER

Discussion:

01:30:45 Chair Bond said the case load for BOZA has been growing. Staff has come up with some options were to be able to adequately handle the increase.

01:31:49 Joe Haberman said the number of applications can't be controlled. He discussed the 2 options – additional meetings and hearing officer meetings (see recording for detailed presentation).

01:50:01 Joe Haberman stated, as Metro Council adds things that require review, it will add to the docket (an unknown) (see recording for detailed presentation).

01:50:28 Emily Liu said the number of cases and meetings have increased over the years (see recording for detailed presentation).

01:53:44 More discussion regarding a hearing officer (see recording for detailed presentation).

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.

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REPORTS OF OFFICERS AND COMMITTEES

No report given

ADJOURNMENT

The meeting adjourned at approximately 3:18 p.m.

A handwritten signature in cursive script, appearing to read "Shawn Bond", written over a horizontal line.

Chair

A handwritten signature in cursive script, appearing to read "M. DePena", written over a horizontal line.

Secretary