

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

April 30, 2018

A meeting of the Louisville Metro Board of Zoning Adjustment was held on April 30, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Rosalind Fishman, Vice Chair
Lula Howard, Secretary
Lester Turner, Jr.
Dwight Young
Richard Buttorff
Kimberly Leanhart

Members Absent:

Mike Allendorf, Chair

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Steve Hendrix, Planning & Design Coordinator
Jon Crumbie, Planning & Design Coordinator
Joel Dock, Planner II
Dante St. Germain, Planner I
Ross Allen, Planner I
Beth Jones, Planner II
Paul Whitty, Legal Counsel
Travis Fiechter, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

APRIL 16, 2018 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:03:45 On a motion by Member Turner, seconded by Member Young, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on April 16, 2018.

The vote was as follows:

Yes: Members Turner, Young, Buttorff, and Vice Chair Fishman

Abstain: Members Leanhart, and Howard

Absent: Chair Allendorf

BOARD OF ZONING ADJUSTMENT MINUTES
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BUSINESS SESSION

Case Number 18CUP1011

Request: Modification of a Conditional Use Permit for a private proprietary club in an R-4 zoning district
Project Name: Hazelnut Farm
Location: 814 Eastwood Fisherville Rd
Owner: Ranjit Brar
Applicant: Ranjit Brar
Representative: Bardenwerper Talbott & Roberts PLLC
Jurisdiction: Louisville Metro
Council District: 19 – Julie Denton
Case Manager: Beth Jones, AICP, 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. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

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

Agency Testimony:

00:05:28 Beth Jones presented the case and showed the site plan (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
Kathy Linares, 5151 Jefferson Blvd., Suite 101, Louisville, KY 40219

Summary of testimony of those in favor:

00:08:13 Nick Pregliasco spoke in favor of the request and showed the site plan. Mr. Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

00:12:07 **Board Members' deliberation**

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00:17:36 **NOTE:** Public Hearing was reopened to allow Mr. Pregliasco and Ms. Linares an opportunity to respond to questions from the Board Members.

00:17:48 Mr. Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

00:19:01 Kathy Linares spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:21:04 Beth Jones responded to questions from the Board Members (see recording for detailed presentation).

00:22:24 On a motion by Member Young, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with Comprehensive Plan policies regarding setbacks, buffering and landscaping and preserves significant open space, and

WHEREAS, the Board further finds that the proposed modification will increase compatibility with the vicinity by placing parking further from the street frontage than previously proposed, and

WHEREAS, the Board further finds that the site is not currently served by MSD; Louisville Metro Department of Public Health & Wellness review will be required prior to construction plan approval. Remaining public facilities are adequate to serve the site, and

WHEREAS, the Board further finds that the existing CUP granted relief from this condition specifically to accommodate an existing concrete pad on the northern property line. Proposed modifications will not further impact this condition of use, and

WHEREAS, the Board further finds that outdoor swimming pools shall be enclosed with a fence at least six feet high, and

WHEREAS, the Board further finds that all recreation areas or play fields and parking lots shall be separated from adjacent properties by a solid fence or dense evergreen shrubbery plantings at least five feet high, and

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Case Number 18CUP1011

WHEREAS, the Board further finds that a sign plan will be required as part of the construction plan approval process; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1011 does hereby **APPROVE** Modification of Conditional Use Permit for private proprietary club in an R-4 zoning district (LDC 4.2.44) to change configuration of previously approved parking lot expansion, based upon the testimony heard today, the staff findings, and the signed letter from the neighbors to the north of the property, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan, including all notes thereon. No further development shall occur on the site without prior review by and approval of the Board.
2. The Modified 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 Private Proprietary Club without further review by and approval of the Board.
3. Louisville Metro Department of Public Health & Wellness requires completion of an on-site evaluation to determine if a suitable on-site sewer system can be installed. The applicant is required to submit detailed floor plans including bathrooms, kitchens, maximum capacity and seating, both indoor and outdoor, as part of this evaluation process. The applicants understand that they proceed further with the modifications proposed herein at their own risk. Furthermore, should these CUP modifications be approved by BOZA at this hearing, until and unless the applicant can fulfill any and all Louisville Metro Department of Public Health & Wellness requirements regarding an on-site sewer system, the project as modified may not proceed.
4. The applicant will be required to submit a revised plan document clarifying the details regarding proposed additions to the event building to bring them into agreement with the content as correctly stated in the staff report. These revisions must be approved by staff before plan is submitted for Construction Review.

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The vote was as follows:

**Yes: Members Turner, Howard, Young, Buttorff, Leanhart, and Vice Chair
Fishman**

Absent: Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 17DEVPLAN1241

Request: Variance to allow encroachment into a protected waterway buffer, a Variance to allow encroachment into the front setback, and a Waiver related to the screening of the subject site from R-5 zoned properties

Project Name: 2905 Fern Valley Road
Location: 2905 Fern Valley Road
Owner: Samir Shah – KAC Enterprises Inc.
Applicant: Mike S. Evans – PE, PLS
Representative: Bardenwerper Talbott & Roberts PLLC
Jurisdiction: Louisville Metro
Council District: 21 – Vitalis Lanshima
Case Manager: Ross Allen, Planner I

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

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

Agency Testimony:

00:24:08 Ross Allen presented the case and showed a Powerpoint presentation. Mr. Allen responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

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

Summary of testimony of those in favor:

00:42:40 Nick Pregliasco spoke in favor of the request and showed a Powerpoint presentation. Mr. Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

01:03:02 Ross Allen responded to questions from the Board Members (see recording for detailed presentation).

01:07:23 Board Members' deliberation

01:09:30 On a motion by Member Howard, seconded by Member Young, the following resolution was adopted:

Variance #1 from LDC 5.3.4.D.3.a to allow encroachment of the covered area for the existing canopy to encroach into the 25 ft. front setback by approximately 4 feet along the Fern Valley Road and being a public easement for newly dedicated right of way as shown on the Category 2B development plan as tract #1:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the applicant is dedicating right of way along the Fern Valley Rd. frontage which results in the existing canopy on proposed tract 1, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity because the existing canopy was present prior to the dedication of right of way along Fern Valley Rd. and is not being altered in any way, and

WHEREAS, the Board further finds that the requested variance will not cause a nuisance to the public since the canopy is a long existing condition that is not being proposed for any modification, with the only requirement for the variance being the dedication of additional right of way, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because no changes are being proposed to the existing canopy. The request of additional dedication of right of way results in the existing canopy no encroaching into the front setback along Fern Valley road. If the dedication of right of way was not requested the variance would not be needed, and

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WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone since the variance is to allow the existing canopy/condition to remain, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because denial would result in the owner needing to remove the existing canopy resulting from the dedication of right of way, 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 because the applicant is not proposing any changes to the canopy and the existing condition would not be required the variance if the dedication of right of way had not been requested, and

WHEREAS, the Board further finds that the variance will not adversely affect the public health, safety or welfare because the transition zone in this instance has a 200 foot Greasy Ditch creek between the property and the property line of the adjoining residential property providing a very large buffer between the site and the adjoining residential properties. The placement of the proposed building and parking lot will create no ill effects to the public's health, safety or welfare, and

WHEREAS, the Board further finds that the variance will not alter the essential character of the general vicinity because the setbacks proposed are not out of character with the existing hotel and with the other adjacent properties that also encroach into this transition zone setback, and

WHEREAS, the Board further finds that the variance will not cause a hazard or a nuisance to the public because of the 200 foot Greasy Ditch creek between the property and the property line of the adjoining residential property providing a very large buffer between the site and the adjoining residential properties. Further, other adjoining properties likewise encroach into this transition setback. Furthermore, the setback of this building and parking from the ditch does not have any effect whatsoever on traffic safety or anything else that could be considered a hazard or nuisance to the public, and

WHEREAS, the Board further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the proposed hotel addition and guest parking lot is more in keeping with the existing hotel development and area along Fem Valley Road. By locating

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parking as proposed, the plan more closely mimics other properties in the area, which also encroach into the transition zone setback, and

WHEREAS, the Board further finds that the variance arises from special circumstances, which do not generally apply to land in the general vicinity because of the reasons set forth hereinabove, including the fact that this is not a vacant site but rather one that has long involved an existing hotel and related parking of another approximately equal size on this site, and

WHEREAS, the Board further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship because the applicant would not have the ability to expand the hotel and provide adequate guest parking which is essential to the success of any hotel. The new hotel will improve the overall character of the area, 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 regulation which relief is sought but rather are the consequence of the size of this property and the already established existing location of building and parking; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17DEVPLAN1241 does hereby **APPROVE** Variance #1 from LDC 5.3.4.D.3.a to allow encroachment of the covered area for the existing canopy to encroach into the 25 ft. front setback by approximately 4 feet along the Fern Valley Road and being a public easement for newly dedicated right of way as shown on the Category 2B development plan as tract #1 (**Requirement 25 ft., Request 21 ft. [from proposed line of dedicated right-of-way tract 1], Variance 4 ft.**), based upon the staff report and the applicant's justification.

The vote was as follows:

Yes: Members Turner, Howard, Young, Buttorff, Leanhart, and Vice Chair Fishman

Absent: Chair Allendorf

01:12:35 On a motion by Member Howard, seconded by Member Young, the following resolution was adopted:

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Variance #2 from LDC 4.8.3.D/4.8.4 to allow the proposed 4 story hotel, existing hotel on tract #2, and VUA to encroach into the middle and outer Type B protected waterway buffer zones by approximately 75 feet with a total area of the encroachment of the impervious surface being approximately 34,336 sf. (excluding the existing two story hotel on proposed tract #2) for proposed tracts #2 and #3:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the site location is has one existing 2 story hotel, shown on tract #2, and the existing subject site prior to the proposed 4 story/45 ft. hotel had approximately 43,208 sf. of impervious surface. The proposal will result in the net loss of approximately 10,000 sf. of previous surface and MSD has previously approved 16DEVPLAN1108 when encroachment into the protected waterway buffer zones was greater than the current proposal. Reconstruction and expansion of the existing parking lot, the addition of the 4 story hotel, and a decrease in the encroachment of the protected waterway buffer zones results in the potential for better water quality and decreased runoff into Greasy Ditch. Greasy Ditch is an altered U.S. Army Corps of Engineers managed blueline (perennial) stream and the encroachment is the minimum to allow for development on the irregularly shaped parcel. MSD has preliminarily approved the development plan, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity because, an existing 2 story hotel and vehicular use area on the subject site were encroaching prior to the both the previously approved development plan, Case no. 16DEVPLAN1108, and the current development plan, case no. 17DEVPLAN1241. Residential dwellings north of Greasy Ditch as well as structures on adjacent parcels to the subject site encroach into the stream side Type B Protected Waterway buffer zones but the proposed 4 story/45 tall hotel is greater in height than either existing hotel on the subject property and in closer proximity then either existing hotel, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because other structures in the vicinity, 2805, 2809, 2815 Fern Valley Road and 815, 825, 833 Ulrich Ave., encroach into the stream side buffers zones as well as residential dwelling units north of Greasy Ditch in the Preston Park 4A subdivision. Regulations as set forth in LDC discuss regulations for the potential impacts of lighting, noise, and noxious odors in LDC 4.1.3 (Lighting), 4.1.4 (Noise), and 4.1.5 (Odor) but staff is unaware of what the future impacts are as determined by a waived landscape

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screen or design standards since no renderings or elevations have been submitted to date, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since as stated previously other structures encroach into the stream side buffer and the applicant is willing to comply with MSD providing a 25 foot stream buffer, 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 but rather are the consequence of the size of this property and the already established location of building and parking, and

WHEREAS, the Board further finds that the variance is necessary because the requirements of this section represent an extreme hardship such that minimal or no reasonable economic use of the land is available without reducing the width of the required Type B Water protection Buffer zones because the requirements of this section represent an extreme hardship such that minimal or no reasonable economic use of the land because the lot size was long ago established. Had the stream bank setback requirement been in place at the time that the lots in this area were created, they would have been significantly enlarged, but they weren't. So the proposed re-use of this property that does not encroach into the stream bank buffer zones would be impossible. Further, once the stream bank setback requirement was adopted, it affected this property far worse than some others due to the fact this man made stream was constructed with such steep walls. Therefore, in heavy rain events the width of the creek does not enlarge like it normally would with a natural creek. This resulted in the buffer area extending far further into the property than would normally be the case with a natural stream. Further, because the North bank of the creek is a couple of feet lower than the bank on the subject property, when there is a flood event, the flooding first occurs on the other side and does not flood this property. The size, shape, or topography of the property, as of March 1, 2003, is such that it is not possible to construct any structure without encroaching into the required Waterway Type B Middle and Outer Buffer Zones, and

WHEREAS, the Board further finds that encroachment into the required Buffer Area shall be limited to the minimum necessary to accommodate the proposed use. The existing building and parking already encroach into the stream bank setback as the setback did not exist at the time of their original construction. The site has been designed so as to limit the encroachment into the setback as much as possible, but to still allow its use as a Best Western hotel. This will be a new

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Best Western with their most modern concept which will result in a welcomed economic redevelopment of this property and area of Fern Valley Road, and

WHEREAS, the Board further finds that the applicant shall commit, to the satisfaction of the County, to mitigation measures that substantially offset any potential adverse impacts of the proposed encroachment during site preparation, construction, and post-construction. The construction plans must comply with MSD's soil erosion and sedimentation control ordinance now in effect and stringently enforced due to the EPA Consent Decree, and

WHEREAS, the Board further finds that approval of the variance will not result in a reduction in water quality. The current detention basin on this property is currently not functional. As a result, the applicant will install a brand new detention basin to offset any new displacement that will be fully functional and result in an improvement to the property and area. Further, the applicant shall provide floodplain compensation at a rate of 1.5 to 1 as noted on the plan, with the excess paid to MSD in the form of an \$18,503 payment for a Regional Facilities Fee. In addition, the applicant shall install water quality measures through a storm water treatment system to satisfy the MS4 requirements. Currently, the runoff from the existing encroachments on the property run off into the creek, but in the future will be properly treated by the storm water treatment system resulting in improved water quality, and

WHEREAS, the Board further finds that the variance will not adversely affect the public health, safety or welfare because this is a mostly as-built condition which will be improved with the renovation of the existing hotel, reconstruction of the existing old parking lot, and the construction of a new hotel building on the site. The stream is a man-made stream for which the existing improvements on the property encroach, and

WHEREAS, the Board further finds that the variance will not alter the essential character of the general vicinity because there is an existing hotel and old parking lot that already cover most of this site. Thus the proposed new hotel expansion and parking lot will improve the character of the area. Multiple other nearby properties encroach into the streambank setback currently. Further, multiple variances have been granted along this same stream and in close proximity to this site, recognizing such variances do not alter the essential character, particularly when this site already encroaches in the setback currently, and

WHEREAS, the Board further finds that the variance will not cause a hazard or a nuisance to the public because the location of a building on this property was

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long ago established within the setback, as well as others in the immediate area. Furthermore, the setback of this building and parking from the ditch does not have any effect whatsoever on traffic safety or anything else that could be considered a hazard or nuisance to the public, and

WHEREAS, the Board further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because as stated hereinabove, an existing hotel building and parking already exist at the approximate location of this proposed new hotel addition. Further, there is no other way to redevelop the site as proposed without encroaching into the streambank setback, and

WHEREAS, the Board further finds that the Variance arises from special circumstances, which do not generally apply to land in the general vicinity because of the reasons set forth hereinabove, including the fact that this is not a vacant site but rather one that has long involved an existing hotel and related parking of another approximately equal size also encroaching into the streambank setback, and

WHEREAS, the Board further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship because the applicant would not have the ability to expand the hotel and provide adequate guest parking which is essential to the success of any hotel, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation which relief is sought but rather are the consequence of the size of this property and the already established existing location of building and parking; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17DEVPLAN1241 does hereby **APPROVE** Variance #2 from LDC 4.8.3.D/4.8.4 to allow the proposed 4 story hotel, existing hotel on tract #2, and VUA to encroach into the middle and outer Type B protected waterway buffer zones by approximately 75 feet with a total area of the encroachment of the impervious surface being approximately 34,336 sf. (excluding the existing two story hotel on proposed tract #2) for proposed tracts #2 and #3 (**Requirement 100 ft., Request 75 ft. [from the edge closest to the stream middle buffer zone], Variance 75 ft.**), based upon the Staff Report, the applicant's justification, and the applicant's presentation.

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The vote was as follows:

Yes: Members Turner, Howard, Young, Buttorff, Leanhart, and Vice Chair Fishman

Absent: Chair Allendorf

01:15:51 On a motion by Member Howard, seconded by Member Young, the following resolution was adopted:

Waiver from LDC 10.2.4.A to not provide a 35 foot LBA with 1.5 planting density requirement with an 8 foot screen along the northern property line for a length of 1138.5 ft. as facing R-5 zoned parcels in a Neighborhood Form District for proposed tracts #2 and #3:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the proposed 4 story hotel has a 84 foot distance from the rear property lines (north of the subject site) of the residences found in the Preston Park Section 4A subdivision across Greasy Ditch, a protected waterway. However, if the landscape waiver is to be granted staff would ask that considerations for lighting impact upon the adjacent residents be considered since the proposed height is approximately 45 feet or four stories, and

WHEREAS, the Board further finds that the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application, and

WHEREAS, the Board further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the proposed hotel addition and guest parking lot is more in keeping with the existing hotel development and area along Fem Valley Road. By locating parking as proposed, the plan as proposed, more closely mimics other properties in the area, which also do not provide the 35 foot LBA, and

WHEREAS, the Board further finds that strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because the applicant would not have the ability to expand the hotel and provide adequate guest parking

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which is essential to the success of any hotel. The new hotel will improve the overall character of the area; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17DEVPLAN1241 does hereby **APPROVE** Waiver from LDC 10.2.4.A to not provide a 35 foot LBA with 1.5 planting density requirement with an 8 foot screen along the northern property line for a length of 1138.5 ft. as facing R-5 zoned parcels in a Neighborhood Form District for proposed tracts #2 and #3, based upon the Staff Report (Item A only), the applicant's justification (Item B, C, and D), and the applicant's presentation.

The vote was as follows:

Yes: Members Turner, Howard, Young, Buttorff, Leanhart, and Vice Chair Fishman

Absent: Chair Allendorf

01:18:40 Meeting was recessed.

01:19:05 Meeting was reconvened.

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CASE NUMBER 17DEVPLAN1180

Request: Variance to allow a structure to exceed the corner lot requirement setback, five Waivers related to design requirements, and three Waivers related to landscaping

Project Name: 1701 West Broadway

Location: 1701 West Broadway

Owner: Kheder Kutmah – Crystal Clean Car Wash Inc.

Applicant: Chris Schipper – Chris Schipper Engineering

Representative: Chris Schipper – Chris Schipper Engineering

Jurisdiction: Louisville Metro

Council District: 4 – Barbara Sexton Smith

Case Manager: Ross Allen, Planner I

NOTE: This case was heard out of order, after Item #5 on the agenda.

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:

01:22:50 Ross Allen presented the case and showed a Powerpoint presentation. Mr. Allen responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Chris Schipper, P.O. Box 2844, Clarksville, IN 47131

Summary of testimony of those in favor:

01:41:45 Chris Schipper spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

01:45:29 Board Members' deliberation

01:46:37 On a motion by Member Howard, seconded by Member Buttorff, the following resolution was adopted:

Variance from LDC 5.5.1.A.2 (2017a) to allow the proposed 1,610 sf. 2-story structure to be constructed more than 5 feet from the Right of Way line along West Broadway (Primary Street frontage) and South 17th Street (Secondary Street frontage):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect public health safety or welfare since the proposed building is located in the rear corner of the lot, and is the farthest location from the public, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the 2- story structure will be built behind the existing carwash. The view from West Broadway will change very little and the 2-story structure will be visible from South 17th Street, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the 2-story structure will be built behind the existing carwash. The view from West Broadway will change very little and the 2-story structure will be visible from South 17th Street, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations since the proposed 2-story structure will be located behind the existing carwash structure, the existing streetscape will be preserved, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the existing carwash is located almost 46 ft. interior to the parcel and occupies at least a third of the parcel with limited area for a larger structure to be built. The proposed location allows the applicant to expand the

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offerings on site while still attempting to mitigate the impact upon surrounding properties, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land since the applicant would require the variance in order to construct the proposed two-story structure, and

WHEREAS, the Board further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17DEVPLAN1180 does hereby **APPROVE** Variance from LDC 5.5.1.A.2 (2017a) to allow the proposed 1,610 sf. 2-story structure to be constructed more than 5 feet from the Right of Way line along West Broadway (Primary Street frontage) and South 17th Street (Secondary Street frontage) (**Requirement for ROW along West Broadway Setback [corner lot] No more than 5 ft. from ROW, Request 138 ft., Variance 135 ft.; Requirement for ROW along South 17th Street Setback [corner lot] No more than 5 ft. from ROW, Request 89 ft., Variance 84 ft.**), based upon the existing design and built car wash on the site, the Staff Report, the applicant's justification and development plan, and the elevation.

The vote was as follows:

Yes: Members Turner, Howard, Young, Buttorff, Leanhart, and Vice Chair Fishman

Absent: Chair Allendorf

01:49:06 On a motion by Member Howard, seconded by Member Young, the following resolution was adopted:

Waiver #1 from LDC 5.5.1.A.1.a and b (2017a) to not provide a principal building entrance facing the primary street (West Broadway) or a corner entrance:

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the proposed structure will be located in an existing parking lot. Traffic flow to and from the site will remain in the same locations, and

WHEREAS, the Board further finds that Guideline 3, Policy 1 states to ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. Guideline 3, Policy 23 states that setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines. The proposed 2-story structure is within the pattern of development as found in the general vicinity since residential structures to the north have three stories, the existing building on the southeastern corner of South 17th Street and West Broadway are two stories in height, and a structure as located closer to the corner of South 18th Street and West Broadway is three stories in height on the same block face. The proposed structure would be the only two-story as found along Esquire Alley.

Guideline 9, Policy 1 states that new development and redevelopment should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with location of retail and office uses, especially in the Traditional Marketplace Corridor the waivers are compatible with the pattern of development within the form district, and there do appear to be physical restraints, i.e. the existing carwash structure, preventing compliance with the regulations to be waived. Therefore, the requested waivers will not violate specific guidelines and policies of Cornerstone 2020, and

WHEREAS, the Board further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since the existing car wash structure situation on the parcel consumes a large part of the parcel and limits the ability to construct any building larger than what is proposed. Granting this waiver will allow the owner to construct the proposed building, and

WHEREAS, the Board further finds that strict application of the regulations would deprive the owner of reasonable use of the land. The construction of the proposed two-story structure at the corner of West Broadway and South 17th Street would require the removal of several self-service bays on the existing carwash and would be out of character as found in this block face with several of the existing structures pre-dating the regulations with greater setbacks than requested by LDC currently. The proposed site within the subject parcel is the most feasible location with minimum impact upon the road network or character of the general vicinity being in similar height mass and scale as properties north, southeast, and west of the proposal site, and

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WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; and

Waiver #2 from LDC 5.5.1.A.3.a (2017a) to allow an existing vehicular use area/parking to be located to the front (West Broadway and South 17th Street) of the proposed 2-story 1,610 sf. primary structure and to not provide the 3 foot masonry, stone, or concrete wall along South 17th Street:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that **the** waiver will not adversely affect adjacent property owners since the existing VUA was already located to the front of the existing carwash along West Broadway and also along South 17th Street. The three foot masonry wall would require the applicant to remove existing plantings and thus the intent of the wall is to screen the VUA. The existing plantings provide a screen from a portion of the VUA along South 17th Street, and

WHEREAS, the Board further finds that Guideline 2, Policy 15 states to encourage the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. The parking existed prior to the current proposal thus the parking location has had no impact upon the immediate vicinity in that time. Guideline 3, Policy 1 states to ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. Guideline 3, Policy 23 states that setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines. Guideline 7, Policy 3 states to evaluate developments for their ability to promote mass transit and pedestrian use, encourage higher density mixed use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation choices. Guideline 9, Policy 1 states that new development and redevelopment should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with location of retail and office uses, especially in the Traditional Neighborhood, Village, Marketplace Corridor, Traditional Workplace Form Districts close to the roadway to minimize the distance pedestrians and transit users have to travel. The purpose of the requirement is to promote mass transit and pedestrian use and reduce vehicle trips in and around the site, and to reduce the distance pedestrians and transit users have to travel. The waivers are compatible with the pattern of development within the form district and are further required resulting from the applicant being located on a corner lot in the Traditional Marketplace

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Corridor. The three foot masonry wall would require the applicant to remove existing plantings and thus the intent of the wall is to screen the VUA. The existing plantings provide a screen from a portion of the VUA along South 17th Street, and

WHEREAS, the Board further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since granting this waiver will allow the owner to construct the proposed building and allow for the continued use of the existing carwash, and

WHEREAS, the Board further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since all of the existing VUA was and has been on site. Any proposed change would still require the waiver resulting from site constraints of the existing building and limitations from existing ingresses/egresses on the subject site, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; and

Waiver #3 from LDC 5.5.1.A.3.b (2017a) to not provide vehicular and parking access to the site from Esquire Alley:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the lack of access from Esquire Alley is an existing condition, and

WHEREAS, the Board further finds that the waiver will not violate specific guidelines of Cornerstone 2020 since the lack of access from Esquire Alley is an existing condition, and

WHEREAS, the Board further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since the lack of access from Esquire Alley is the existing condition and ingresses/egresses as found on West Broadway and South 17th Street are existing and provide adequate access to the subject site. If the owner was required to provide access to Esquire Alley this would result in the disruption of traffic flow, reduce parking, and eliminate landscaping, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or

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would create an unnecessary hardship on the applicant resulting in a reduction in the number of parking spaces provided and alterations to the traffic flow, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; and

Waiver #4 from LDC 5.5.1.A.3.d (2017a) to not provide vehicular and pedestrian connections/access between the subject site and the Marathon gas station found directly adjacent to the west:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since this is an existing condition on the subject site. Additionally, there is a concrete wall running in a north-south direction along the western property line with existing vegetation with a green verge on the western property which would result in a stub that has no connection to the western lot on the subject site, and

WHEREAS, the Board further finds that Guideline 2, Policy 15 states to encourage the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Transit exist along West Broadway but consideration in the fact that this subject site is an existing carwash which results in vehicular travel directly to the site. Limitations on providing the cross access are the existing concrete wall and a green verge which is found on the western adjacent site, resulting in a cross access stub which it is unknown to staff at this time if any existing or proposed development on the Marathon Gas Station site would allow for the connectivity. Guideline 7, Policy 3 states to evaluate developments for their ability to promote mass transit and pedestrian use, encourage higher density mixed use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation choices. The land use as existing on the subject site is a carwash and thus results in vehicular trips but there are existing bus stops found on the northeastern and southwestern corners of West Broadway and South 17th Street and further west along West Broadway on Routes 23, and 99, and

WHEREAS, the Board further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since granting the waiver will allow the owner to construct the proposed building and allow for the continued use of the carwash. Providing cross access to the western adjacent property will result in the disruption of traffic flow, reduction in parking spaces, and elimination of landscaping, and

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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 further limiting or reducing parking and altering traffic flow. The addition of a cross access to the western adjacent property would be restrained by the existing concrete wall, adjacent green verge, and a change in grade between the two abutting properties, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; and

Waiver #5 from LDC 5.9.2.A.1.b.i to not provide a clearly defined safe pedestrian access from the adjacent public right of way along, West Broadway, through the off-street parking area to a non-residential building entrance, neither the existing car wash nor the proposed 2-story 1,610 sf retail/laundry mat:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the existing car wash would block access from West Broadway to the proposed 2-story structure. However, the owner is providing access to the newly proposed structure from South 17th Street via a connection from the existing sidewalk in the public right of way, and

WHEREAS, the Board further finds that Guideline 9, Policy 1 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with walkways for access to public transportation stops. The owner is providing pedestrian/bicycle access to the newly proposed structure from South 17th Street via a connection from the existing sidewalk in the public right of way. Transit users have access to the site from stops along West Broadway and from the northeastern/southwestern corners along Broadway via transit routes 23 and 99x, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the existing carwash blocks direct access from the public right of way along West Broadway the owner is proposing pedestrian access from the right of way along South 17th Street, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since there is no space to provide a pedestrian access from the West Broadway

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frontage pedestrians may access the proposed 2-story structure from 17th Street, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; and

Waiver #6 from LDC 10.2.4; table 10.2.3 to not provide at minimum a 15 ft. LBA with 1.5 planting density multiplier with 3 Large (Type A) or Medium (Type B) trees with an 8 ft. screen along the rear property line as parallel to Esquire Alley adjacent to the R-6 zoned residential dwellings in a Traditional Neighborhood Form District:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the owner is willing to provide a 5 ft. landscape area along the rear property line parallel to Esquire Alley. Additionally, the applicant is willing to provide a 898 sf. landscaped area with 4 trees as found interior to Esquire Alley and exterior to the proposed sidewalk running parallel to the alley, and

WHEREAS, the Board further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The owner is willing to provide a 5 ft. landscape area along the rear property line parallel to

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Esquire Alley. Additionally, the applicant is willing to provide an 898 sf. landscaped area with 4 trees as found interior to Esquire Alley and exterior to the proposed sidewalk running parallel to the alley, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since owner will reduce the require 15 ft. minimum LBA to 5 ft. but intends to provide screening. Additionally, the applicant is willing to provide an 898 sf. landscaped area with 4 trees as found interior to Esquire Alley and exterior to the proposed sidewalk running parallel to the alley. The applicant states that granting of the waiver will allow the owner to construct the proposed 2 story structure and will provide landscape screening where space permits, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use since the denial of the waiver would prevent the owner from building the proposed 2- story structure. The owner is willing to provide landscaping where space permits along with an 898 sf. landscaped area with 4 trees as found interior to Esquire Alley and exterior to the proposed sidewalk running parallel to the alley, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; and

Waiver #7 from LDC 10.2.10/10.2.11 to reduce the required 5 ft. VUA LBA along South 17th Street to 4 ft. and not provide the required 5 ft. VUA LBA along the West Broadway frontage for an approximate distance of 129 ft. and to not provide the required 3 ft. continuous screen along West Broadway:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the waiver request is a pre- existing condition on the site and landscaping is already present. The parcel has 4 ft. rather than the required 5 ft. VUA LBA. Any change to the existing condition will result in a minimum gain of one foot along South 17th Street where plantings are already present for screening of the VUA, and

WHEREAS, the Board further finds that the waiver will not violate Guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. The waiver will not

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violate Guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way. The subject site already has partial screening along the South 17th Street VUA, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since most of the existing landscaping is present closer towards West Broadway but the owner will have sufficient space to provide a three foot tall buffering along the remaining portion of the 4 ft. wide VUA LBA excluding the ingress/egress off South 17th Street, 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 the applicant states, "that this would prevent the owner from operating the carwash", and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; and

Waiver #8 from LDC 10.2.12 to not provide the required 5% ILA requirement and as mitigation to provide a 898 sf. 12 ft. x 75 ft. landscaped area interior to the rear property line/5 ft. VUA LBA along Esquire Alley and interior to the 4 ft. VUA LBA along South 17th Street, north of the proposed 5 ft. sidewalk leading to the primary entrance:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the ILA is not being provided nor had been provided that 898 sf. landscaped area with 4 trees as found interior to Esquire Alley and exterior to the proposed sidewalk running parallel to the alley will be provided as compensation, and

WHEREAS, the Board further finds that Guideline 13, Policy 5 calls for standards to ensure the creation and/or preservation of tree canopy as a valuable community resource. The purpose of interior landscape areas is to break up large impervious areas and allow for a greater distribution of tree canopy coverage. The existing tree canopy to be preserved, 1,920 sf., are presently two type A trees found along South 17th Street. The applicant is willing to provide compensation in creating an 898 sf. landscaped area with 4 trees as found

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interior to Esquire Alley and exterior to the proposed sidewalk running parallel to the alley in place of the ILA requirement. The ILA will be eliminated but green space will be provided and compensated in place of the ILA requirement, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the current proposal will allow for the proposed building, allow sufficient parking and increase green space on the subject site, 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 because if the waiver is not granted it results in the inability for the applicant to construct the proposed two-story structure. The owner is willing to compensate with an 898 sf. landscaped area with 4 trees as found interior to Esquire Alley and exterior to the proposed sidewalk running parallel to the alley in place of the ILA requirement, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17DEVPLAN1180 does hereby **APPROVE** Waiver #1 from LDC 5.5.1.A.1.a and b (2017a) to not provide a principal building entrance facing the primary street (West Broadway) or a corner entrance, Waiver #2 from LDC 5.5.1.A.3.a (2017a) to allow an existing vehicular use area/parking to be located to the front (West Broadway and South 17th Street) of the proposed 2-story 1,610 sf. primary structure and to not provide the 3 foot masonry, stone, or concrete wall along South 17th Street, Waiver #3 from LDC 5.5.1.A.3.b (2017a) to not provide vehicular and parking access to the site from Esquire Alley, Waiver #4 from LDC 5.5.1.A.3.d (2017a) to not provide vehicular and pedestrian connections/access between the subject site and the Marathon gas station found directly adjacent to the west, Waiver #5 from LDC 5.9.2.A.1.b.i to not provide a clearly defined safe pedestrian access from the adjacent public right of way along, West Broadway, through the off-street parking area to a non-residential building entrance, neither the existing car wash nor the proposed 2-story 1,610 sf retail/laundry mat, Waiver #6 from LDC 10.2.4; table 10.2.3 to not provide at minimum a 15 ft. LBA with 1.5 planting density multiplier with 3 Large (Type A) or Medium (Type B) trees with an 8 ft. screen along the rear property line as parallel to Esquire Alley adjacent to the R-6 zoned residential dwellings in a Traditional Neighborhood Form District, Waiver #7 from LDC 10.2.10/10.2.11 to reduce the required 5 ft. VUA LBA along South 17th Street to 4 ft. and not provide the required 5 ft. VUA LBA along the

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West Broadway frontage for an approximate distance of 129 ft. and to not provide the required 3 ft. continuous screen along West Broadway, and Waiver #8 from LDC 10.2.12 to not provide the required 5% ILA requirement and as mitigation to provide a 898 sf. 12 ft. x 75 ft. landscaped area interior to the rear property line/5 ft. VUA LBA along Esquire Alley and interior to the 4 ft. VUA LBA along South 17th Street, north of the proposed 5 ft. sidewalk leading to the primary entrance, based upon the existing design and built car wash on the site, the Staff Report, the applicant's justification, the elevation and the development plan, noting there will be landscaping planted at Esquire Alley that will add to the beauty of the site.

The vote was as follows:

Yes: Members Turner, Howard, Young, Buttorff, Leanhart, and Vice Chair Fishman

Absent: Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 18DEVPLAN1002

Request: Variance to allow the structure to encroach within the rear setback and a Waiver to not provide a pedestrian access from the structure to the public sidewalk and two Waivers related to landscaping

Project Name: 3255 Bardstown Road

Location: Cat 2B 3255 Bardstown Road

Owner: Drew Zazofsky –Thorntons Inc.

Applicant: Prateek Gupta – Realcraft Property Solutions LLC.

Representative: Michael Hill – Land Design and Development Inc.

Jurisdiction: Louisville Metro

Council District: 26 – Brent T. Ackerson

Case Manager: Ross Allen, Planner I

NOTE: This case was heard out of order, before Item #4 on the agenda.

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

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

Agency Testimony:

01:19:13 Ross Allen stated the applicant has requested this case be continued (see recording for detailed presentation).

01:20:15 On a motion by Member Leanhart, seconded by Member Howard, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 18DEVPLAN1002 to the May 21, 2018 Board of Zoning Adjustment Public Hearing.

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The vote was as follows:

**Yes: Members Turner, Howard, Young, Buttorff, Leanhart, and Vice Chair
Fishman**

Absent: Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1020

Request:	Variance to allow a driveway to be used for off street parking to exceed 20 feet in width
Project Name:	420 Macon Avenue Driveway
Location:	420 Macon Avenue
Owner:	David & Connie Dunn
Applicant:	David Dunn
Representative:	David Dunn
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:

01:56:24 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:

David Dunn, 420 Macon Avenue, Louisville, KY 40207

Summary of testimony of those in favor:

02:02:45 David Dunn 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 18VARIANCE1020

The following spoke in opposition of the request:

No one spoke.

02:10:56 Board Members' deliberation

02:11:56 On a motion by Member Young, seconded by Member Leanhart, 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 driveway is proposed to be on private property and will lead to a detached garage, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the driveway will maintain the prevailing pattern of access in the general vicinity, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the driveway extends to a low traffic, local class street, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the driveway is proposed to be the same width as the garage to which it leads, a garage which is permitted by the zoning regulations, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the lot is regular in shape and of similar size to neighboring lots, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by requiring the applicant to have a driveway that is not as wide as the permitted garage, leading to difficulty in parking cars within the garage, and

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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 applicant is requesting the variance and has not begun construction, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1020 does hereby **APPROVE** Variance from City of St. Matthews Development Code Section 9.1.4 to allow a driveway to be used for off-street parking to exceed 20 feet in width (**Requirement 20 ft., Request 28 ft., Variance 8 ft.**), based upon the presentation, the testimony heard today, the Standard of Review and Staff Analysis, and the variance justification statement.

The vote was as follows:

Yes: Members Turner, Howard, Young, Buttorff, Leanhart, and Vice Chair Fishman

Absent: Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1028

Request:	Variance to allow a private yard area to be less than the required 30% of the area of a lot
Project Name:	842 Franklin Street Addition
Location:	842 Franklin Street
Owner:	Kimberly Lesak
Applicant:	Christopher Eldridge – Eldridge Company
Representative:	Christopher Eldridge
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
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:

02:13:32 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:

Chris Eldridge, 1437 Story Avenue, Louisville, KY 40206

Summary of testimony of those in favor:

02:20:38 Chris Eldridge spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:23:27 Ms. St. Germain responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 18VARIANCE1028

The following spoke in opposition of the request:

No one spoke.

02:24:47 Board Members' deliberation

02:25:11 On a motion by Member Young, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as significant green space will remain in the side yards of the property, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the private yard area is already reduced by the unusual depth of the accessory structure/use area, and the further reduction of the private yard area will not be visible to the public, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the consolidated lots provide significant side yard space on either side of the principal structure, which are proposed to remain green space, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the private yard area is reduced due to the unusual configuration of the garage relative to the principal 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 because the garage is set very deeply on the lot in relation to the alley, an unusual situation in the neighborhood, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by requiring the applicant to construct the addition into the side yards, reducing green space that currently exists on the consolidated lots, and

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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 applicant is requesting the variance and has not begun construction, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1028 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of a lot (**Requirement 30% [2,934.2 sf], Request 4.2% [408 sf], Variance 25.8% [2,526.2 sf]**), based upon the testimony heard today, the staff findings, and the variance justification statement.

The vote was as follows:

Yes: Members Turner, Howard, Young, Buttorff, Leanhart, and Vice Chair Fishman

Absent: Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1029

Request:	Variance to allow a structure to encroach into the required side yard setback
Project Name:	1606 S Shelby Street Addition
Location:	1606 S Shelby Street
Owner:	Above & Beyond Real Estate LLC
Applicant:	Gordon Jett
Representative:	Gordon Jett
Jurisdiction:	Louisville Metro
Council District:	15 – Marianne Butler
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:

02:26:51 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:

Gordon Jett, 3415 Newburg Road, Louisville, KY 40218

Summary of testimony of those in favor:

02:33:15 Gordon Jett spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke neither for nor against the request:

Owen Graham, 1604 S. Shelby Street, #2, Louisville, KY 40217

Summary of testimony of those neither for nor against:

02:37:33 Owen Graham spoke neither for nor against the request. Mr. Graham stated he was not here to contest the placement of the wall of the addition, but he did want to question the window that was indicated in the drawing. Mr. Graham stated that since the window is not going to be present, that is no longer a matter of concern to him. Mr. Graham stated he was also concerned about drainage. Mr. Graham responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

REBUTTAL:

02:40:13 Gordon Jett spoke in rebuttal in regard to Mr. Graham's concerns regarding drainage issues. Mr. Jett responded to questions from the Board Members (see recording for detailed presentation).

02:41:14 Board Members' deliberation

02:43:15 NOTE: Public Hearing was reopened to allow Mr. Jett an opportunity to respond to further questions from the Board Members (see recording for detailed presentation).

02:44:19 Board Members' deliberation

02:44:33 On a motion by Member Young, seconded by Member Buttorff, the following resolution was adopted:

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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 structure will have to be constructed according to building code, including all fire codes, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as reduced setbacks are common in the general vicinity, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as all building codes must be followed in the new construction, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as stepping back the addition to not encroach into the side yard setback would create a costly engineering challenge and potentially make the addition infeasible, 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 because the existing principal structure encroaches into the side yard setback, requiring the second story addition to encroach to the same degree, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by creating a costly engineering challenge in requiring the applicant to step back the second story, 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 applicant is requesting the variance and has not begun construction, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1029 does hereby **APPROVE** Variance from Land Development Code Table 5.2.2 to allow a structure to encroach into the required side yard

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setback (**Requirement 3 ft., Request 2.5 ft., Variance 0.5 ft.**), based upon the testimony heard today, the Standard of Review and Staff Analysis, and the variance justification, and **SUBJECT** to the following Condition of Approval:

Condition of Approval:

1. The window shown on the elevation shall be removed and not be facing 1604 South Shelby Street.

The vote was as follows:

Yes: Members Turner, Howard, Young, Buttorff, Leanhart, and Vice Chair Fishman

Absent: Chair Allendorf

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CASE NUMBER 18VARIANCE1030

Request:	Variance to allow a fence to exceed 4 feet in height in the front yard of a double-frontage lot
Project Name:	2330 Brookside Drive Fence
Location:	2330 Brookside Drive
Owner:	Robert Wainwright
Applicant:	Robert Wainwright
Representative:	Robert Wainwright
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:

02:46:47 Dante St. Germain presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Robert Wainwright, 2330 Brookside Drive, Louisville, KY 40205
Darrell Perry, 2341 Valletta Lane, Louisville, KY 40205

Summary of testimony of those in favor:

02:54:21 Robert Wainwright spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

03:00:39 Darrell Perry spoke in favor of the request (see recording for detailed presentation).

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The following spoke in opposition of the request:

David Steinbock, 2332 Brookside Drive, Louisville, KY 40205

Summary of testimony of those in opposition:

03:02:11 David Steinbock spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

03:05:53 Robert Wainwright spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

03:08:56 Ms. St. Germain responded to questions from the Board Members (see recording for detailed presentation).

03:09:20 Board Members' deliberation

03:23:05 On a motion by Member Young, seconded by Member Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the fence is not located at a street corner and will not create a hazardous condition, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the fence is of a style typical to the area, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the fence does not obstruct sight lines or cause a hazard, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the fence extends to

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Valletta Lane but does not extend along the length of the Valletta Lane frontage, 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 because the fence replaced trees which were removed due to poor condition which previously provided a barrier between the subject property and the abutting property, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by requiring the applicant to reduce the height of a fence needed for privacy between the subject property and abutting property, and

WHEREAS, the Board further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant constructed the fence prior to requesting a variance. However, staff does not have any evidence that the violation of the zoning regulations was willful, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1030 does hereby **APPROVE** Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence to exceed 4 feet in height in the front yard of a double-frontage lot (**Requirement 4 ft., Request 6 ft., Variance 2 ft.**), based upon the testimony heard today, the staff findings, and the variance justification, and **SUBJECT** to the following Condition of Approval:

Condition of Approval:

1. The first fence panel (nearest Valletta Lane) shall be reduced to 4 feet, and the second fence panel shall be reduced to 5 feet.

The vote was as follows:

Yes: Members Turner, Howard, Young, Buttorff, and Leanhart

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No: Vice Chair Fishman

Absent: Chair Allendorf

03:24:52 Meeting was recessed.

03:25:24 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1032

Request:	Variance to allow a structure to encroach into the required side yard setback
Project Name:	3936 Napanee Road Addition
Location:	3936 Napanee Road
Owner:	Samuel & Katherine Gaunt
Applicant:	Charlie Williams
Representative:	Charlie Williams
Jurisdiction:	Louisville Metro
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:

03:25:47 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:

Charles Williams, 1626 Windsor Place, Louisville, KY 40204

Summary of testimony of those in favor:

03:37:09 Charlie Williams spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

03:42:42 Board Members' deliberation

03:46:33 On a motion by Member Howard, seconded by Member Buttorff, 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 structure will have to be constructed according to building code, including all fire codes, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as a variety of garage configurations exist in the immediate vicinity, including detached garages in the rear yards and attached garages on the sides of the principal structures, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as all building codes must be followed in the new construction, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the lot is regular in shape and similar in size to other lots in the general vicinity, 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 applicant is requesting the variance and has not begun construction, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1032 does hereby **APPROVE** Variance from Land Development

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Code Table 5.3.1 to allow a structure to encroach into the required side yard setback (**Requirement 6.33 ft., Request 1.89 ft., Variance 4.44 ft.**), based upon the area of the garage and the area of this variance being the same as the area of an existing carport footprint and is therefore not an unreasonable circumvention of the zoning regulations, the applicant's justification, and the site plan and elevations.

NOTE: Board Member Young left at approximately 4:45 p.m.

The vote was as follows:

Yes: Members Turner, Howard, Buttorff, Leanhart, and Vice Chair Fishman
Absent: Member Young, and Chair Allendorf

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CASE NUMBER 18VARIANCE1037

Request:	Variance to allow a proposed building to encroach into the 20' side setback
Project Name:	Kentucky Derby Museum
Location:	704 Central Avenue
Owner:	Kentucky Derby Museum Corporation
Applicant:	Kentucky Derby Museum Corporation
Representative:	Evans Griffin, Inc
Jurisdiction:	Louisville Metro
Council District:	15 – Marianne Butler
Case Manager:	Joel Dock, 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. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

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

Agency Testimony:

03:49:34 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:

Karl Lentz, 4010 Dupont Circle, Louisville, KY 40207

Summary of testimony of those in favor:

03:52:56 Karl Lentz spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

03:56:43 Board Members' deliberation

03:57:20 On a motion by Member Howard, seconded by Member Leanhart, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variances will not adversely affect public health, safety, or welfare as the proposed structures do not impact the safe movement of vehicles or pedestrians, have sufficient pedestrian and vehicular connectivity, and as adjacent owners impacted by the request are non-residential (Churchill Downs) and the two uses are intertwined, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the overall site design and land uses are compatible with the existing and future development of Churchill Downs, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed structures do not impact the safe movement of vehicles or pedestrians, and adjacent owners impacted by the request are non-residential (Churchill Downs) and the two uses are intertwined, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as adjacent owners impacted by the request are non-residential (Churchill Downs) and the two uses are intertwined, 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 adjacent owners impacted by the request are non-residential (Churchill Downs) and the two uses are intertwined, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as the

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overall site design and land uses are compatible with the existing and future development of Churchill Downs, 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 appropriate relief is being requested from the Board of Zoning Adjustment; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1037 does hereby **APPROVE** Variance from Land Development Code Section 5.3.5.C.3 to allow for proposed building to encroach upon 20' side setback as shown on proposed development plan, based upon the Staff Report, the presentation, the site plan, and the elevations.

The vote was as follows:

Yes: Members Turner, Howard, Buttorff, Leanhart, and Vice Chair Fishman
Absent: Member Young, and Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 17CUP1112

Request:	Conditional Use Permit to allow outdoor alcohol sales and consumption in a C-1 zoning district
Project Name:	Morels Cafe
Location:	619 Baxter Avenue
Owner:	SDT, LLC
Applicant:	Rani Newman
Representative:	Rani Newman
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:

03:59:55 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:

Rani Newman, 3005 Dartmouth Ave., Louisville, KY 40205

Summary of testimony of those in favor:

04:07:07 Rani Newman 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 17CUP1112

The following spoke in opposition of the request:

No one spoke.

04:09:16 Board Members' deliberation

04:11:34 On a motion by Member Howard, seconded by Member Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal meets all applicable policies of the Comprehensive Plan, and

WHEREAS, the Board further finds that the subject site is located in a commercial area that has a mix of business services and residential. All the uses in the area have similar, scale, intensity, traffic, noise, and lighting, and

WHEREAS, the Board further finds that the proposal has been reviewed and approved by Transportation Planning and MSD. The Louisville Fire District #4 reviewed the proposal, and

WHEREAS, the Board further finds that:

There are eight specific standards required to obtain the conditional use permit requested. **Items B, C, D and G do not apply.** Item E license for beer only will be obtained if the proposal is approved.

Outdoor alcohol sales and consumption for a restaurant may be permitted in the C-1 zoning district upon the granting of conditional use permit and compliance with the listed requirements:

- A. All outdoor areas for the sale and consumption of alcohol must have designated boundaries.
- B. Outdoor dining areas within the public right-of-way must receive approval from the agency responsible for transportation engineering and shall be designed in accordance with agency standards. **This standard does not apply.**
- C. Outdoor dining areas adjacent to the public right-of-way shall contain a physical barrier that is at least three feet in height. The barrier should be

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designed to permit existing legal access from building to the adjacent public right-of-way. **This standard does not apply.**

- D. Outdoor dining areas that include the sale and consumption of alcohol within 50 feet of a residentially zoned or used property shall provide a six foot continuous screen as part of the designated boundary for the areas of the outdoor area within 50 feet of residentially used or zoned property. The continuous screen shall be in conformance with the Chapter 10, Part 4 (Implementation Standards). **This standard does not apply.**
- E. This conditional use permit shall be limited to restaurant uses in the C-1 that hold the following types of ABC licenses:
 - 1. Restaurant liquor and wine license by the drink for 100 plus seats
 - 2. Restaurant wine license by the drink for restaurants with seating for 100 and receives at least 70 percent gross receipts from food sales
- F. The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 1 A.M.
- G. The entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99). **This standard does not apply.**
- H. The Board may require additional and more restrictive requirements than those listed above based on the conditions of the specific location and the characteristics of the specific restaurant; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1112 does hereby **APPROVE** Conditional Use Permit to allow outdoor alcohol sales and consumption in a C-1 zoning district, based upon the Staff Report, the staff's presentation, the Standard of Review (excluding the items which are not applicable), noting that use of the outdoor dining area for the sale and consumption of alcohol will cease by 1:00 a.m. based on discussion, the site plan, and the applicant's presentation, and **SUBJECT** to the following Conditions of Approval:

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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 outdoor alcohol sales and consumption without further review and approval by the Board.

The vote was as follows:

Yes: Members Turner, Howard, Buttorff, Leanhart, and Vice Chair Fishman
Absent: Member Young, and Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 17CUP1035

Request:	Conditional Use Permit to allow outdoor alcohol sales and consumption in a C-1 zoning district
Project Name:	Hooked on Frankfort
Location:	3202 Frankfort Avenue
Owner:	Sonyajeon, Inc.
Applicant:	EC Design
Representative:	EC Design
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Beth Jones, AICP, 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. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

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

Agency Testimony:

04:14:04 Beth Jones stated this case is to be continued to the May 7, 2018 Board of Zoning Adjustment Public Hearing (see recording for detailed presentation).

04:14:49 On a motion by Member Leanhart, seconded by Member Howard, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 17CUP1035 to the May 7, 2018 Board of Zoning Adjustment Public Hearing.

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CASE NUMBER 17CUP1035

The vote was as follows:

Yes: Members Turner, Howard, Buttorff, Leanhart, and Vice Chair Fishman

Absent: Member Young, and Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 18CUP1001

Request:	Conditional Use Permit to allow short term rental of a dwelling unit within a TNZD
Project Name:	Short Term Rental
Location:	531 W. St. Catherine Street
Owner:	Charlton and Melissa Yingling
Applicant:	Charlton and Melissa Yingling
Representative:	Charlton and Melissa Yingling
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Beth Jones, AICP, 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. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

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

Agency Testimony:

04:15:44 Beth Jones presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Charlton Yingling, 531 S. St. Catherine St., Louisville, KY 40203

Summary of testimony of those in favor:

04:19:23 Charlton Yingling 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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04:27:32 Board Members' deliberation

04:28:21 On a motion by Member Howard, seconded by Member Buttorff, the following resolution was adopted:

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

WHEREAS, the Board further finds that the proposed use is compatible with surrounding development and land uses. No exterior construction or alterations to the building or the site will be required, and

WHEREAS, the Board further finds that 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 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. **According to the applicant, the residence has four bedrooms; LDC regulations permit up to 12 guests.**
- D. The dwelling unit shall be a single-family residence, duplex or condominium. This provision shall not be waived or adjusted. **PVA lists the existing structure as a single-family residence.**

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- 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. **LDC regulations credit 30 ft. property frontage with one on-street parking space. A two- vehicle garage at the rear of the site will be available for guest use.**
- 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.

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1001 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit in the TNZD (LDC 4.2.63), based upon the staff findings, the Standard of Review and Staff Analysis, and that the applicant will be providing two parking spaces in the garage, noting the fifth bedroom is a storage area and is not to be used for short term rental, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not registered with Develop Louisville and with the Revenue Commission within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.
2. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.

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PUBLIC HEARING

CASE NUMBER 18CUP1001

The vote was as follows:

Yes: Members Turner, Howard, Buttorff, Leanhart, and Vice Chair Fishman

Absent: Member Young, and Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 18CUP1013

Request:	Conditional Use Permit to allow short term rental of a dwelling unit not the primary residence of the host
Project Name:	Short Term Rental
Location:	3613 Lexington Road
Owner:	Faith Unlimited LLC
Applicant:	Dr. Dana O'Neil
Representative:	Dr. Dana O'Neil
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Beth Jones, AICP, 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. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

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

Agency Testimony:

04:30:40 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Dr. Dana O'Neil, 3613 Lexington Road, Louisville, KY 40207

Summary of testimony of those in favor:

04:34:05 Dr. Dana O'Neil spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

04:38:09 Board Members' deliberation

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

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

WHEREAS, the Board further finds that the proposed use is compatible with surrounding development and land uses. No exterior construction or alterations to the building or the site will be required, and

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. The proposal does not appear to create substantial additional requirements for the site, 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. **According to the applicant, the dwelling unit has one bedroom. LDC regulations permit up to six guests.**

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- D. The dwelling unit shall be a single-family residence, duplex or condominium. This provision shall not be waived or adjusted. **PVA lists the structure as a commercial office. The short-term rental will be conducted in an apartment on the second floor.**
- 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 site has 70 ft. of property frontage on Cornell Place; LDC regulations credit the site with three on-street parking spaces. The business operation has ten off-street parking spaces at the rear which will be available for the use of guests. Parking is not permitted on Lexington Road.**
- 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.

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1013 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit not the primary residence of the host (LDC 4.2.63), based upon the Staff Report, the applicant's presentation, and the Standard of Review and Staff Analysis, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not

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registered with Develop Louisville and with the Revenue Commission within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.

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

The vote was as follows:

Yes: Members Turner, Howard, Buttorff, Leanhart, and Vice Chair Fishman
Absent: Member Young, and Chair Allendorf

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ADJOURNMENT

The meeting adjourned at approximately 6:09 p.m.

Chair

Secretary