

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

A meeting of the Louisville Metro Board of Zoning Adjustment was held on February 6, 2023 at 1:43 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members present:

Sharon Bond, Chair
Kimberly Leanhart, Secretary
Brandt Ford
Yani Vozos
Jan Horton
Lula Howard

Members absent:

Richard Buttorff, Vice Chair

Staff Members present:

Brian Davis, Planning & Design Assistant Director
Joe Haberman, Planning & Design Manager
Julia Williams, Planning & Design Manager
Chris French, Planning & Design Supervisor
Molly Clark, Planner II
Heather Pollock, Planner I
Amy Brooks, Planner I
Clara Schweiger, Planner I
Laura Ferguson, Legal Counsel
Pamela Brashear, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

00:47:05 **JANUARY 23, 2023 BOARD OF ZONING ADJUSTMENT MEETING
MINUTES**

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

RESOLVED, that the Board of Zoning Adjustment does hereby **APPROVE** the minutes of its meeting conducted on January 23, 2023.

The vote was as follows:

YES: Members Ford, Horton, Howard, Leanhart, Vozos and Bond
NOT PRESENT FOR THIS CASE: Member Buttorff

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PUBLIC HEARING

CASE NO. 22-MVARIANCE-0001

Request: A modified variance to further reduce the rear yard setback
Project Name: 9903 Brownsboro Rd
Location: 9903 Brownsboro Rd
Owner: Hogan Holdings 97, LLC
Applicant: Bowman Consulting Group, Ltd
Jurisdiction: Louisville Metro
Council District: 17– Markus Winkler
Case Manager: Clara Schweiger, Planner I

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

Agency Testimony:

01:10:52 Clara Schweiger discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Chris Brown, Bowman Consulting, 3001 Taylor Springs Drive, Louisville, Ky. 40220

Summary of testimony of those in favor:

01:15:11 Chris Brown gave a power point presentation. The area is a mixed-use heavy commercially zoned corridor. The modified variance is at the rear of lot 3 (see recording for detailed presentation).

Deliberation:

01:22:24 Board of Zoning Adjustment deliberation.

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

A modified variance of Land Development Code section 5.3.3.C.2.b to further reduce the rear yard setback from 30' to 8' for a variance of 22' on lot 3

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PUBLIC HEARING

CASE NO. 22-MVARIANCE-0001

On a motion by Member Howard, seconded by Member Vozos, the following resolution based on the Standard of Review and Staff Analysis, testimony and evidence heard today was adopted.

WHEREAS, the variance will not adversely affect the public health, safety or welfare because there was already a variance approved for the drive thru lane and dumpster enclosure to encroach into the rear yard setback with a previous plan, and the applicant is providing all required plantings in the landscape buffer area near the drive thru lane and dumpster enclosure; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity because the variance is being requested at the rear of the property; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public as planting and screening is being provided in the area requested for relief which serves to mitigate any potential hazard or nuisance to the public; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations as the minimum necessary relief has been requested to develop the site for the intended users while also maintaining desired levels of parking and cross connectivity; and

WHEREAS, the requested variance arises from special circumstances that do not generally apply to land in the general vicinity or same zone as the portion of the setback requested for relief is needed to accommodate drive lanes and cross connectivity between uses; and

WHEREAS, the Board finds, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as planting and screening is still being provided to screen the commercial use from the residential properties adjacent to the site; and

WHEREAS, the Board further finds 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.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the modified variance of Land Development Code section 5.3.3.C.2.b to further reduce the rear yard setback from 30-feet to 8-feet at its closest point regarding the dumpster location for a variance of 22-feet on lot 3.

The vote was as follows:

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CASE NO. 22-MVARIANCE-0001

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

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PUBLIC HEARING

CASE NO. 22-MVARIANCE-0002

Request: A modified variance to exceed the maximum fence height in the street side yard setback.
Project Name: Bristol Oaks Court Variance
Location: 8701 Bristol Oaks Court
Owner: Thomas and Kim Solomon
Applicant: Kim Solomon
Jurisdiction: Louisville Metro
Council District: 26– Brent Ackerson
Case Manager: Amy Brooks, Planner I

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

Agency Testimony:

01:23:53 Amy Brooks discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Kim Solomon, 8701 Bristol Oaks Court, Louisville, Ky. 40299

Summary of testimony of those in favor:

01:28:35 Kim Solomon stated she has lived in her home for 29 years. The yard is large and a pool will be a nice addition for the grandchildren to enjoy (see recording for detailed presentation).

Deliberation:

01:35:16 Board of Zoning Adjustment deliberation.

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

Variance from Land Development Code section 4.4.3.A.1.a.i to allow a fence to exceed 48 inches in height in the street side yard setbacks

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PUBLIC HEARING

CASE NO. 22-MVARIANCE-0002

On a motion by Member Ford, seconded by Member Horton, the following resolution based on the Standard of Review and Staff Analysis, testimony heard today and agreement of the applicant was adopted.

WHEREAS, the requested variance will not adversely affect the public health, safety or welfare, because the fence must be constructed to comply with all building codes and the land development code, except where relief is requested. The proposed fence will be setback far enough from the edge of pavement of the street to not obstruct vision clearance and will not adversely impact the safe movement of vehicles or pedestrians; and

WHEREAS, the requested variance may alter the essential character of the general vicinity as staff did not observe other fences in the neighborhood that exceed 48 inches in height in street side yard setbacks and as moving the fence location in addition to increasing the height furthers the intrusion into the street side yard setback; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public because the fence must be constructed to comply with all building codes, and it will not adversely impact the safe movement of vehicles or pedestrians; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations as a variance was already approved for a fence in the street side yard setback; and

WHEREAS, the requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone as the property is similar in size and shape to other properties in the subdivision; and

WHEREAS, the Board finds, the strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant as the height of the proposed fence could be reduced to conform with the existing approved variance; and

WHEREAS, the Board further finds 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.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Variance from Land Development Code section 4.4.3.A.1.a.i to allow a fence to exceed 48 inches in height in the street side yard setbacks, a requirement of 48 inches, request of 60 inches and a variance of 12 inches, the current location of the

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CASE NO. 22-MVARIANCE-0002

fence plus half the distance from the existing fence to the front of the house and 2 feet closer to the property line, **SUBJECT** to the following Condition of Approval:

- 1) The finished side of fences must face out towards the public right of way and adjoining properties.

The vote was as follows:

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

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CASE NO. 22-VARIANCE-0107

Request: A variance to reduce the required 30% private yard area and to reduce the 3 ft side yard setback
Project Name: Youngland Ave Variance
Location: 1727 Youngland Avenue
Owner: Eric Johnson
Applicant: Michael Marsh
Jurisdiction: Shively
Council District: 3 - Vacant
Case Manager: Molly Clark, Planner II

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

Agency Testimony:

01:44:10 Molly Clark discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Eric Johnson, 1718 Model Road, Louisville, Ky. 40216

Summary of testimony of those in favor:

01:48:34 Eric Johnson said the storage building will be used for cars and work trucks (see recording for detailed presentation).

Deliberation:

01:51:20 Board of Zoning Adjustment deliberation.

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

Variance from the Land Development Code Table 5.2.2 to allow a primary structure to encroach into the side yard setback.

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PUBLIC HEARING

CASE NO. 22-VARIANCE-0107

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

WHEREAS, the requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all applicable building codes and the Land Development Code, except where relief is requested; and

WHEREAS, the structure will not alter the essential character of the general vicinity as it will be built with material that is in character with the surrounding residential neighborhood. In addition, there are other primary structures along Youngland Avenue that appear to encroach into the side yard setback; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations as the location of the proposed structure is similar to others in the neighborhood; and

WHEREAS, the requested variance does not arise from special circumstances which do generally apply to the land in the generally vicinity or the same zone as the lot is larger in size and shape in comparison to the surrounding properties; and

WHEREAS, the Board finds, the strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant as the proposed single-family home footprint could be modified removing the need for a side yard variance; and

WHEREAS, the Board further finds 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 has not begun construction.

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 the lot

WHEREAS, the requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all applicable building codes, including fire codes, and the Land Development Code, except where relief is requested; and

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WHEREAS, the proposed private yard area reduction will not alter the essential character of the general vicinity as many properties in the area seemingly have reduced private yard areas; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes. There is sufficient space between the proposed structures and property lines to conduct maintenance without crossing over into other properties; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed accessory structure will comply with all other regulations, except where relief is requested, and there are other properties within the block that have seemingly reduced open space between the principal and accessory use areas; and

WHEREAS, the requested variance does not arise from special circumstances which do not generally apply to the land in the general vicinity or the same zone as the lot is larger in size and shape in comparison to the surrounding properties. The property is adjacent to an alleyway which serves a commercial use that fronts Dixie Highway; and

WHEREAS, the Board finds, the strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant as the proposed plan could be modified to reduce its encroachment into the private yard area; and

WHEREAS, the Board further finds 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. The applicant has not begun construction.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Variance from the Land Development Code Table 5.2.2 to allow a primary structure to encroach into the side yard setback, requirement 3 feet, request .5 feet, variance of 2.5 feet and a 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 the lot, requirement of 30%, 5,050 square feet, request 11%, 1,971 square feet, with a variance of 19%, 3,079 square feet.

The vote was as follows:

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

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PUBLIC HEARING

CASE NO. 22-VARIANCE-0116

Request:	Variances
Project Name:	Speckman Retail Addition
Location:	719 & 721 Speckman Road
Owner/Applicant:	Speckman Commercial LLC
Jurisdiction:	City of Middletown
Council District:	19- Anthony Piagentini
Case Manager:	Julia Williams, AICP, Planning Supervisor

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

Agency Testimony:

01:53:58 Julia Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Ted Bernstein, 503 Washburn Avenue, Louisville, Ky. 40222

Summary of testimony of those in favor:

01:59:20 Ted Bernstein gave a power point presentation. The property was always intended to be developed. Almost all the parking along the rear will encroach into the 30-foot non-residential to residential setback (see recording for detailed presentation).

Deliberation:

02:03:06 Board of Zoning Adjustment deliberation.

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

1. Variance from Chapter 5.3.1.C.5 to reduce the minimum 10' setback to 3' in front of 2 parking spaces (7' variance)

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PUBLIC HEARING

CASE NO. 22-VARIANCE-0116

2. Variance from Chapter 5.3.1.C.5 to eliminate the 30' non-residential to residential setback along the east property line

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

WHEREAS, the variance will not adversely affect the public health, safety or welfare because the parking along Speckman will still be screened. The elimination of the 30' setback is mainly an existing condition but the current proposal will allow for further parking encroachment; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity because the parking along Speckman will still be screened. The elimination of the 30' setback is mainly an existing condition but the current proposal will allow for further parking encroachment; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public because the parking along Speckman will still be screened. The elimination of the 30' setback is mainly an existing condition but the current proposal will allow for further parking encroachment; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations because the parking along Speckman will still be screened. The elimination of the 30' setback is mainly an existing condition but the current proposal will allow for further parking encroachment; and

WHEREAS, the requested variance arises from the dual roadways present along the frontage (Speckman and Blankenbaker Parkway) and the existing condition along the rear of the property where an access road is in between the subject site and the adjacent multi-family; and

WHEREAS, the Board finds, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because of the dual roadways and existing access roads not being created by the applicant; and

WHEREAS, the Board further finds the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The applicant is not responsible for the dual roadways or the existing access easement for the development of the subject lot.

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CASE NO. 22-VARIANCE-0116

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Variance from Chapter 5.3.1.C.5 to reduce the minimum 10-foot setback to 3-feet in front of 2 parking spaces (7-foot variance) and a Variance from Chapter 5.3.1.C.5 to eliminate the 30-foot non-residential to residential setback along the east property line.

The vote was as follows:

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

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PUBLIC HEARING

CASE NO. 22-VARIANCE-0109

Request: A variance to allow a primary structure to encroach into the side yard setback
Project Name: Mockingbird Valley Drive Variance
Location: 34 Mockingbird Valley Drive
Owner/Applicant: Hoedt Fitz Schultze
Representative: Trey Ferrara, LD&D, INC
Jurisdiction: Louisville Metro
Council District: 16- Scott Reed
Case Manager: Amy Brooks, Planner I

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

Agency Testimony:

02:04:56 Amy Brooks discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Mark Johnson, 849 South 6th Street, Louisville, Ky. 40203

Summary of testimony of those in favor:

02:08:58 Mark Johnson said he's here to answer questions. The easement was the issue during the initial construction (see recording for detailed presentation).

Deliberation:

02:12:16 Board of Zoning Adjustment deliberation.

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

Variance from the Land Development Code Table 5.3.1 to allow a structure to encroach into the side yard setback

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PUBLIC HEARING

CASE NO. 22-VARIANCE-0109

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

WHEREAS, the requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all applicable building regulations and the Land Development Code, except where relief is requested; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the structure and its location on the lot will be in character with the surrounding residential neighborhood. Several homes on Mockingbird Place do not have the required minimum or total side yards required in this zoning district; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations as the other homes within the general vicinity also encroach into the required side yards; and

WHEREAS, the requested variance does arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the lot is not similar in size and shape as the surrounding properties. This specific lot is triangular shaped with a wider frontage that narrows in the rear. There are also existing steep slopes that could possibly impede construction in the rear yard; and

WHEREAS, the Board finds, the strict application of the provisions of the regulation would create an unnecessary hardship as the applicant had received a building permit in 2019 for the part of the addition; and

WHEREAS, the Board further finds 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 has completed part of the construction.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Variance from the Land Development Code Table 5.3.1 to allow a structure to encroach into the side yard setback, requirement 15 feet, request of 4 feet and a variance of 11 feet.

The vote was as follows:

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PUBLIC HEARING

CASE NO. 22-VARIANCE-0109

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

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PUBLIC HEARING

CASE NO. 23-VARIANCE-0003

Request: A variance to allow a primary structure to encroach into the side yard setbacks.
Project Name: Stannye Drive Variance
Location: 2321 Stannye Drive
Owner: Andrew Noland
Applicant: Todd Shelburne
Jurisdiction: Louisville Metro
Council District: 16- Scott Reed
Case Manager: Amy Brooks, Planner I

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

Agency Testimony:

02:13:51 Amy Brooks discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Brandon Fields, 9005 Highview, Louisville, Ky. 40272
Andrew Todd Shelburne, 2106 New Market Drive, Louisville, Ky. 40222

Summary of testimony of those in favor:

02:17:48 Brandon Fields said he's here to answer questions (see recording for detailed presentation).

02:18:52 Todd Shelburne described the need for the variance. The second floor will provide the homeowners with more bedrooms for their growing family (see recording for detailed presentation).

Deliberation:

02:25:40 Board of Zoning Adjustment deliberation.

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

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PUBLIC HEARING

CASE NO. 23-VARIANCE-0003

Variance from the Land Development Code Table 5.3.1 to allow a second story addition encroach into the required side yard setback in R-3

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

WHEREAS, the requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all applicable building codes and the Land Development Code, except where relief is requested; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity because there are other primary structures along this stretch of Stannye Drive that seemingly encroach into the side yard setbacks. In addition, other parcels in the vicinity have side yards that do not total the required 22 feet as specified by the Land Development for R-3 single- family zoned properties; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public because the addition to the primary structure must be constructed to comply with all building codes; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations since the proposed this request seems compatible with the established pattern of setbacks within the surrounding neighborhood. The encroachment only occurs because the applicant is proposing a second story addition onto an existing structure that was built prior to the current zoning regulations; and

WHEREAS, the requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone as the property is similar in size and shape to other properties in the subdivision; and

WHEREAS, the Board finds, the strict application of the provisions of the regulation would create an unnecessary hardship because the walls of the second story addition would have to be stepped back from the first floor external walls which would create the need to build load bearing walls on the first floor that would normally not exist and that could adversely alter the floor plan of the ground floor; and

WHEREAS, the Board further finds the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the applicant has begun construction on the new addition.

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CASE NO. 23-VARIANCE-0003

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Variance from the Land Development Code Table 5.3.1 to allow a second story addition encroach into the required side yard setback in R-3, requirement of, 7.5 foot minimum, 22.5 foot total, request of 6 foot and 9.2 feet, 15.2 feet total, a variance of 1.5 feet and 5.8 feet, 7.3 feet total.

The vote was as follows:

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

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PUBLIC HEARING

CASE NO. 22-CUP-0390

Request: Conditional Use Permit for a Hospital/Medical Clinic with Relief from a Condition and a Variance
Project Name: Hosparus
Location: 2900, 2902, 2903, 2904, 2905 Stonehaven Court; 3522, 3524, 3526, 3528, 3532 Ephraim McDowell Drive; 2917 Abigail Drive
Owner: Hosparus, Inc.
Applicant: Hosparus, Inc.
Representative: Land Design and Development
Jurisdiction: Louisville Metro
Council District: 8 – Cassie Chambers Armstrong
Case Manager: Jay Lockett, 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 was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

02:27:13 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Mike Hill, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

Summary of testimony of those in favor:

02:32:57 Mike Hill gave a power point presentation. The proposal is redevelopment of the existing Hosparus Health site (see recording for detailed presentation).

Deliberation:

02:44:25 Board of Zoning Adjustment deliberation.

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

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PUBLIC HEARING

CASE NO. 22-CUP-0390

Variance from Land Development Code Table 5.3.2 to permit a maintenance building and dumpster enclosure to encroach into the 30-foot non-residential to residential setback by up to 20 feet as shown on the development plan.

On a motion by Member Howard, seconded by Member Vozos, the following resolution based on the Standard of Review and Staff Analysis, testimony and evidence heard today was adopted.

WHEREAS, the requested variance will not adversely affect public health safety or welfare since adequate buffering and screening will be provided; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity since the variance request is in an area that is currently parking and previously granted a similar variance; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public since MSD and Transportation Planning have approved the preliminary plan and will ensure safety through the construction permitting process; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of zoning regulations since the area of the request is already a parking area. Additional planting and screening will be provided with this request that improve existing conditions along the property edge; and

WHEREAS, the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity; and

WHEREAS, the Board finds, the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land since the lot is relatively narrow and irregularly shaped; and

WHEREAS, the Board further finds 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 site was developed with previously approved variances. The applicant is requesting relief prior to the redevelopment of the site.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Variance from Land Development Code Table 5.3.2 to permit a maintenance building and dumpster enclosure to encroach into the 30-foot non-residential to residential setback by up to 20 feet as shown on the development plan.

The vote was as follows:

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PUBLIC HEARING

CASE NO. 22-CUP-0390

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

Conditional Use Permit per Land Development Code section 4.2.29 to permit a hospital/medical clinic with relief from Condition of Approval (B) in order to permit buildings to be closer to the property line than 30 feet as shown on the development plan

On a motion by Member Howard, seconded by Member Leanhart, the following resolution based on, the Standard of Review and Staff Analysis with relief from Item B because of the multiple encroachments into the 30-foot setback requirement and the variance has been approved, as well as the buildings that were closer to the Watterson with all the buffering provided by the trees, was adopted.

WHEREAS, the proposal meets all applicable policies of the Comprehensive Plan; and

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

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

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

A. In form districts where nonresidential freestanding signs are not permitted, a single freestanding on-premise sign, not exceeding 80 square feet in area and not exceeding 10 feet in height, may be placed at each major entrance. Attached signs shall be designed in accordance with form district requirements, but the Board reserves the right to approve the size and location of all attached signs. **The applicant has been informed of this provision.**

B. All buildings and structures shall be at least 30 feet from any property line. **The applicant is requesting relief from this part.**

C. Medical clinics shall provide an indoor waiting area(s) for clients. The waiting area shall be large enough to accommodate the clients arriving for services. **The applicant has been informed of this provision.**

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D. Parking for medical clinics shall be adequate to accommodate the maximum number of clients expected to be at the site at one time. **The parking proposed has been approved by the Planning Director.**

E. Such facilities shall be located on or near a collector or arterial street with reasonable access to public transportation. **The subject site is approximately 691 feet from the nearest arterial roadway, Dutchmans Ln. Dutchmans Ln has transit service available and there are sidewalks linking it to the subject site.**

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit per Land Development Code section 4.2.29 to permit a hospital/medical clinic with relief from Condition of Approval (B) in order to permit buildings to be closer to the property line than 30-feet as shown on the development plan, with relief from Item B because of the multiple encroachments into the 30-foot setback requirement and the variance has been approved, as well as the buildings that were closer to the Watterson with all the buffering provided by the trees, **SUBJECT** to the following Conditions of Approval:

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

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

CASE NO. 23-CUP-0008

Request: Conditional Use Permit for an adult care center
Project Name: Elderserve
Location: 631 South 28th Street
Owner: Elderserve, Inc.
Applicant: Elderserve, Inc.
Representative: Frost Brown Todd, LLP
Jurisdiction: Louisville Metro
Council District: 5 – Donna Purvis
Case Manager: Chris French, AICP, Planning Supervisor

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

Agency Testimony:

02:48:42 Chris French discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Tanner Nichols, 400 West Market Street, Louisville, Ky. 40202
Tim Finley, 9500 Hunters Trail Court, Louisville, Ky.

Summary of testimony of those in favor:

02:51:41 Tanner Nichols gave a power point presentation and discussed the history of the property. The building will not be changed and there will be one sign used (see recording for detailed presentation).

02:54:40 Tim Finley said the site was the former Meals on Wheels.

Deliberation:

02:56:04 Board of Zoning Adjustment deliberation.

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

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PUBLIC HEARING

CASE NO. 23-CUP-0008

Conditional Use Permit to allow an adult care center in the R-6 zoning district and Traditional Neighborhood Form District

On a motion by Member Horton, seconded by Member Howard, the following resolution based on the Standard of Review and Staff Analysis, granting relief from Items D, G and E with the exception that only 1 free-standing sign be allowed not to exceed 20 square feet and 6 feet in height as recommended by staff, all of the requirements of the Land Development Code have been mitigated was adopted.

WHEREAS, the proposal meets all applicable policies of the Comprehensive Plan; and

WHEREAS, the existing structure and land use are compatible with surrounding development and land uses; and

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

WHEREAS, the Board further finds Child and Adult Care Centers may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, PRD, R-7, TNZD, M-1, M-2, and M-3 districts upon granting of a Conditional Use Permit and in compliance with the listed requirements:

A. Existing Residential Structure

1. The structure shall remain, or property improved so that the exterior design and ornamentation is residential in character and compatible with the immediately surrounding neighborhood and form district(s).
2. Should the structure remain, there shall be no alterations or improvements which would impair future use of the structure as a primary residence.
3. Associated off-street parking shall not be located between the principal structure and the front property line or within the street side yard setback, except on driveways leading to the home, rear yard, or garage.
4. Outdoor activities shall be limited to the rear yard, except that corner lots may utilize the street side yard. No play equipment in excess of 4' in height is allowed in the required street side yard of the form district.

B. Industrial Zoning Districts

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1. Child care centers on the same development site as a use permitted within the M-1, M-2, and M-3 zoning districts that do not meet the provisions of Section 4.3.11 of this LDC:

a. All special standards outlined within Section 4.3.11 are met unless relief is granted by the Board. Applications requesting relief from special standards in Section 4.3.11 shall provide written justification demonstrating the reasons why relief should be granted and how such relief would ensure the public health, safety, and welfare of staff and children.

2. Areas designated for outdoor activity shall not be located within 200 feet of any area used for heavy truck idling, loading, or the operation of other heavy equipment.

3. Review by the Air Pollution Control District (APCD) shall be required. APCD may impose conditions as necessary to protect human health and the environment.

C. Drainage Control – Preliminary plan approval must be received by the Louisville Metro Sewer District (MSD). **The plan has been preliminarily approved by MSD.**

D. Fence – A fence shall enclose all areas for outdoor activity. **The outdoor area is a courtyard that is located in the center of the building. A fence is not needed to enclose this area; however, relief is needed to this standard. Staff supports relief because of the location of the outdoor area.**

E. Signs – In residential zoning districts, there shall be allowed one non-illuminated attached business sign not to exceed 4 square feet in area, regardless of the form district. No changing image signs shall be permitted. Two freestanding sign structures are located on the property adjacent to 28th Street. Only one of the sign structures is used. The other sign has no signage located on the structure. The sign that is used is approximately 20 square feet and 6 feet in height. Relief from this standard is required for the size of the sign. Staff recommends that relief be granted for the existing sign to be utilized with a condition of approval that the only sign on the property shall be a freestanding sign not to exceed 20 square feet and 6 feet in height.

F. Hours – No outdoor activities shall occur between the hours of 9 P.M. and 7 A.M., except for pick-up/drop-off. **The applicant has been notified of this standard.**

G. Buildings – All buildings and structures shall conform to the requirements of the zoning and form district in which they are located. The existing structure needs relief from this standard because the structure does not meet the setback requirements of the Traditional Neighborhood form district. **Staff supports the relief from the standard because the location of the existing building is compatible to the surrounding area.**

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H. The use shall be in compliance with all applicable regulations as administered by the Kentucky Cabinet for Health and Family Services. **The applicant has been notified of this requirement.**

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow an adult care center in the R-6 zoning district and Traditional Neighborhood Form District, granting relief from Items D, G and E with the exception that only 1 free-standing sign be allowed not to exceed 20 square feet and 6 feet in height as recommended by staff, all of the requirements of the Land Development Code have been mitigated, **SUBJECT** to the following Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a rehabilitation home use until further review and approval by the Board.
3. The only sign allowed on the property shall be one freestanding sign not to exceed 20 square feet in area and 6 feet in height.

The vote was as follows:

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

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PUBLIC HEARING

CASE NO. 22-CUP-0359

Request: Conditional Use Permit for short term rental of a dwelling unit that is not the primary residence of the host
Project Name: Cawein Way Short-Term Rental
Location: 3202 Cawein Way
Owner: Luke Neubauer
Applicant: Luke Neubauer
Jurisdiction: Louisville Metro
Council District: 26 – Brent Ackerson
Case Manager: Chris French, AICP, Planning Supervisor

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

Agency Testimony:

02:59:36 Chris French discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Luke Neubauer, 2309 Cross Hill Road, Louisville, Ky. 40206

Summary of testimony of those in favor:

03:02:20 Luke Neubauer said he is renovating the home for short-term rental and has strict rules in order to be good neighbors. There are cameras at all the entrances, professional lawn care and cleaners (see recording for detailed presentation).

Deliberation:

03:09:07 Board of Zoning Adjustment deliberation.

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

Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host

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PUBLIC HEARING

CASE NO. 22-CUP-0359

On a motion by Member Howard, seconded by Member Horton, the following resolution based on the Standard of Review and Staff Analysis Item 2, general character of the area, the intensity, noise and allowing up to 10 people will have an adverse impact on this immediate neighborhood, testimony and evidence heard today was adopted.

WHEREAS, the Board finds that the proposed short-term rental is not compatible to the surrounding neighborhood based on the maximum number of guests allowed.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host.

The vote was as follows:

YES: Members Ford, Horton, Howard and Leanhart

NO: Members Vozos and Bond

NOT PRESENT AND NOT VOTING: Member Buttorff

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PUBLIC HEARING

CASE NO. 22-CUP-0363

Request: Conditional Use Permit for short term rental of a dwelling unit that is not the primary residence of the host
Project Name: Rodman Street Short Term Rental
Location: 2717 Rodman Street
Owner: Agape Realty LLC
Applicant: Brian Bouser
Jurisdiction: Louisville Metro
Council District: 3-Vacant
Case Manager: Amy Brooks, Planner I

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

Agency Testimony:

03:16:36 Amy Brooks discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Brian Bouser, 738 Heywood Avenue, Louisville, Ky. 40208

Summary of testimony of those in favor:

03:21:04 Brian Bouser said the proposal for the proposed short-term rental is a great location and he resides nearby (around the block) (see recording for detailed presentation).

Deliberation:

03:25:50 Board of Zoning Adjustment deliberation.

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

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PUBLIC HEARING

CASE NO. 22-CUP-0363

Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in a single-family home in the R6 Multi-family residential zone and Traditional Neighborhood form district

On a motion by Member Vozos, seconded by Member Ford, the following resolution based on the Standard of Review and Staff Analysis, testimony heard today and the fact that there are no other short-term rentals within a 600-foot radius was adopted.

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

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

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

WHEREAS, the Board further finds **4.2.63** Short Term Rental Term Rental of a dwelling unit that is not the primary residence of the host or the Short Term Rental of a condominium unit that is the primary residence of the host in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 or R-8A district and Short Term Rental of any dwelling unit in a TNZD district may be allowed upon the granting of a Conditional Use Permit. In addition to any conditions of approval, a short-term rental and its host shall meet the following requirements:

A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short-term rental. ***The applicant has been informed of this requirement.***

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

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

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

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a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. ***As of the date of this report, within 600' of the subject property, there are 0 properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host.***

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

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

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

H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. ***1 space for off street parking***

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

J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building,

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

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

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

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in a single-family home in the R6 Multi-family residential zone and Traditional Neighborhood Form District, **SUBJECT** to the following Condition of Approval:

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

The vote was as follows:

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

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PUBLIC HEARING

CASE NO. 22-CUP-0371

Request: Conditional Use Permit for short term rental of a dwelling unit that is not the primary residence of the host.
Project Name: N. Wenzel Street Short Term Rental
Location: 111 N. Wenzel Street
Owner: Butcher Block Properties, LLC
Applicant: Andy Blieden
Representative: Kelli Jones, Sabak, Wilson & Lingo, INC
Jurisdiction: Louisville Metro
Council District: 4 – Jecorey Arthur
Case Manager: Heather Pollock, Planner I

NOTE: THIS CASE WAS HEARD SECOND ON THE AGENDA TODAY

00:49:57 On a motion by Member Howard, seconded by Member Vozos, the following resolution based on the request of the applicant's representative was adopted.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby move this case up on the agenda.

The vote was as follows:

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

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

Agency Testimony:

00:51:33 Heather Pollock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Kelli Jones, Sabak, Wilson and Lingo, 608 South 3rd Street, Louisville, Ky. 40202
Jaclyn Journey, 117 North Wenzel Street, Louisville, Ky. 40206

Summary of testimony of those in favor:

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00:54:06 Kelli Jones gave a power point presentation. Jaclyn Journey will be 2 doors down (at her business) from the proposed short-term rental. The property could be rezoned to commercial and short-term rental would be permitted by right. (see recording for detailed presentation).

01:04:38 Jaclyn Journey said she lives in Seneca Gardens (see recording for detailed presentation).

Deliberation:

01:06:27 Board of Zoning Adjustment deliberation.

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

Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in the R-6 Multi-Family Zoning District and Traditional Neighborhood Form District

Member Howard made a motion to approve the request based on the Applicant's Justification, testimony heard today and it's adequate for relief from Item D. Also, the area is mixed-use and a 2 bedroom home allowing only 6 people will not have an adverse impact on the neighborhood. The motion died for the lack of a second.

On a motion by Member Leanhart, seconded by Member Horton, the following resolution based on the fact that there are 2 other units within the area that are CUP's within the 600-foot buffer rule and there was not enough relief given for that rule, Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the property on which the short-term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short-term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. ***As of the date of this report, within 600' of the subject property, there are 2 properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host. The applicant is requesting relief to the provision in accordance with LDC Section 4.2.2.B. Please see justification attached to this agenda item.***

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If the Board does not grant relief, the application does not meet all of the listed requirements and the conditional use permit cannot be approved.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in the R-6 Multi-Family Zoning District and Traditional Neighborhood Form District.

The vote was as follows:

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

NO: Member Howard

NOT PRESENT AND NOT VOTING: Member Buttorff

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CASE NO. 20-APPEAL-0005

Request:	Appeal of an administrative decision regarding nonconforming rights.
Project Name:	Marie Street Appeal
Location:	1433 Marie Street
Owner:	Anthony Sermersheim
Appellant:	Anthony Sermersheim
Representative:	Bardenwerper Talbot & Roberts, PLLC
Jurisdiction:	Louisville Metro
Council District:	6 – Vacant
Case Manager:	Chris French, AICP, Planning Supervisor

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

Agency Testimony:

03:29:11 Chris French discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223
Anthony Sermersheim, 1020 Dresden Avenue, Louisville, Ky. 40215
Josh Cundiff, 315 East Burnett, Louisville, Ky.

Summary of testimony of those in favor:

03:34:14 Nick Pregliasco gave a power point presentation. The property has a unique history. Marie St. is an alley that leads into the property (see recording for detailed presentation).

Nick Pregliasco described the building and design. The applicant uses it for his landscaping business/contractor shop. There are 3 proposed conditions of approval and they are willing to eliminate some uses (see recording for detailed presentation).

03:53:24 Laura Ferguson, Legal Counsel, stated regarding the conditions of approval, typically on appeals either the non-conforming rights have been established and the appeal is granted and the official determination overturned or they have not established conforming rights and the official determination is upheld. The applicant

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would only have non-conforming rights to the contract shop and storage yard. They would not get non-conforming rights to any M-2 use. There is no need for the 1st or 2nd condition of approval (see recording for detailed presentation).

03:54:55 Anthony Sermersheim said he's here for questions and follow-up (see recording for detailed presentation).

03:55:35 Josh Cundiff said Anthony Sermersheim has been a great neighbor (see recording for detailed presentation).

Rebuttal:

04:08:03 Chris French said there was one email he did not receive but was glad Mr. Pregliasco submitted it today (see recording for detailed presentation).

Deliberation:

04:09:00 Board of Zoning Adjustment deliberation.

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

Appeal of an administrative decision to deny nonconforming rights for contractor's shop and storage yard in the TNZD (Neighborhood General subarea)

On a motion by Member Leanhart, seconded by Member Howard, the following resolution based on the information provided today was adopted.

WHEREAS, the M-2 zone (2.5.2) is the lowest level zone that permits a contractor's shop with an outdoor storage yard use. In addition, the C-2 zones allows this use with a conditional use permit; and

WHEREAS, this property was located in the TNZD area which encompasses both the Old Louisville and Limerick neighborhoods. The subject property was rezoned in 2002 from R-7 to TNZD. The R-7 zone does not permit the contractor's shop and storage yard use. Since this property is within the Old City of Louisville, any nonconforming use, outside of those created through a rezone or change to the regulations would need to be dated back to 1971. Looking at the Caron's directories, a non-residential use was not listed in 1971. It is staff's understanding that this property was used by the State of Kentucky for a number of years and was eventually sold to a previous private property

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owner in 1991. Pursuant to KRS 100.361, any instrumentality of state government shall not require approval of the local planning unit for any proposal affecting land use of property. Therefore, the private use of the property began in 1991, and so the nonconforming right has to be dated back to 1991 and the use must continue forward to the present day. Based on information in the nonconforming rights application and other information available to staff it was determined that there was insufficient information to recognize nonconforming rights for the property for a contractor's shop and storage yard use; and

WHEREAS, the Board finds, the applicant's appeal application provides one additional piece of information beyond what was submitted with the nonconforming rights case (18NONCONFORM1029). The appellant submitted an affidavit from Mark Herbener, who states that he purchased the property from the State of Kentucky in December 1990. He states in this affidavit the property was used as a contractor's shop since his purchase of the property until he sold it to the Appellant in September 2017; and

WHEREAS, the Board further finds the Caron's directories corroborate for a few years what is stated in the affidavit. Staff does not take affidavits alone in the review of nonconforming rights. There is still insufficient information for staff to recognized nonconforming rights for this property.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the Appeal of the administration to deny non-conforming rights for the contractor shop and storage area. There has been enough evidence and information to show this property has been used as a contractor's building of some sort since 1990. The type of contractors or organizations who rented or leased have used the land for storage and equipment continuously from 1991 to the present.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Member Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
February 6, 2023

PUBLIC HEARING

CASE NO. 22-APPEAL-0014

Request: Appeal of an administrative decision regarding
nonconforming rights
Project Name: Atterberry Court Appeal
Location: 4607 Atterberry Court
Owner: Prospect Construction, LLC
Appellant: Tom Sanders
Jurisdiction: City of Shively
Council District: 3 – Vacant
Case Manager: Chris French, AICP, Planning Supervisor

NOTE: THIS CASE WAS HEARD FIRST ON THE DOCKET TODAY TO REQUEST A CONTINUANCE

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

00:48:11 On a motion by Member Vozos, seconded by Member Howard, the following resolution was adopted.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** this case to the March 20, 2023 BOZA meeting.

The vote was as follows:

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

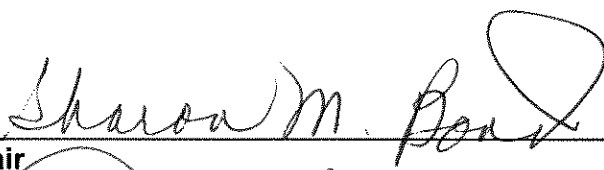
BOARD OF ZONING ADJUSTMENT MINUTES
February 6, 2023

REPORTS OF OFFICERS AND COMMITTEES

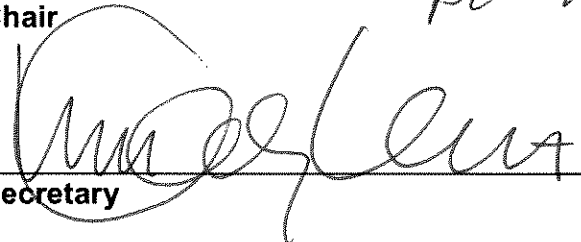
No report given

ADJOURNMENT

The meeting adjourned at approximately 5:12 p.m.



Chair



Secretary