

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

July 10, 2017

A meeting of the Louisville Metro Board of Zoning Adjustment was held on July 10, 2017 at 8:30 a.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Mike Allendorf, Chair
Betty Jarboe, Vice Chair
Rosalind Fishman, Secretary
Dwight Young

Members Absent:

Lester Turner
Dean Tharp
Lula Howard

Staff Members Present:

Brian Mabry, Planning & Design Supervisor
Steve Hendrix, Planning & Design Supervisor
Joe Haberman, Planning & Design Manager
Sherie' Long, Landscape Architect
Jon Crumbie, Planning & Design Coordinator
Dante St. Germain, Planner I
Ross Allen, Planner I
Beth Jones, Planner II
Paul Whitty, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

June 19, 2017 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:02:11 On a motion by Member Fishman, 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 June 19, 2017.

The vote was as follows:

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

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BUSINESS SESSION

CASE NUMBER B-17987-12

Request:	Conditions of Approval Report
Project Name:	B-17987-12
Location:	7331 Global Drive
Owner:	Yamamoto FB Engineering
Applicant:	Yamamoto FB Engineering
Representative:	Darryl Keels
Jurisdiction:	Louisville Metro
Council District:	12 – Rick Blackwell
Case Manager:	Steve Hendrix, Planning Supervisor

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:

00:02:57 Steve Hendrix presented an update on this case and responded to questions from the Board Members. Mr. Hendrix stated the final report on this case will be due on September 11, 2017 (see recording for detailed presentation).

NOTE: This agenda item provided update information only. Therefore, no vote or action was taken.

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PUBLIC HEARING

CASE NUMBER 17VARIANCE1026

Request: Variance from the required 50' street side yard setback and variance from the required 65' front yard setback

Project Name: 2005 Lakeland Road Garage and Additions

Location: 2005 Lakeland Road

Owner: Off Ice Flips

Applicant: Ludmila Dimitrov

Representative: Ludmila Dimitrov

Jurisdiction: Louisville Metro

Council District: 17 – Glen Stuckel

Case Manager: Dante St. Germain, Planner I

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

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

Agency Testimony:

00:06:04 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:

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223
Ludmila Dimitrov, 2005 Lakeland Road, Louisville, KY 40223
Donna Sue B. Kokinda, 11812 Garr Avenue, Louisville, KY 40223
Ronald Kuhl, 11819 Garr Avenue, Louisville, KY 40223
David Elder, 10197 Bunsen Way, Louisville, KY 40299

Summary of testimony of those in favor:

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00:15:45 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).

00:26:55 Ms. St. Germain responded to a question from Member Fishman regarding the email in opposition (see recording for detailed presentation).

00:27:10 Nick Pregliasco stated the opposition email is from a person who lives in Crestwood. Mr. Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

00:39:11 Ludmila Dimitrov spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:40:05 Mr. Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

00:40:15 Ms. Dimitrov provided additional photographs to the Board Members (see recording for detailed presentation).

00:40:44 Mr. Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

00:42:22 Ms. Dimitrov spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:45:02 Mr. Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

00:45:25 Ms. Dimitrov responded to questions from the Board Members (see recording for detailed presentation).

00:46:05 Donna Kokinda spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:48:18 Ronald Kuhl spoke in favor of the request (see recording for detailed presentation).

00:49:52 David Elder spoke in favor of the request and responded to questions from Legal Counsel (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

00:52:45 Board Members' deliberation

00:56:35 On a motion by Vice Chair Jarboe, seconded by Member Young, the following resolution was adopted:

Variance from Land Development Code Section 5.1.12.B.e.i to allow a structure to encroach into the required infill street side yard setback:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the proposed garage does not obstruct the sight triangle at the corner, and

WHEREAS, the Board further finds that the requested variance will *not* alter the essential character of the general vicinity *due to the variety of styles and locations of the dwellings*, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the garage does not obstruct the sight triangle at the corner, and

WHEREAS, the Board further finds that the requested variance will *not* allow an unreasonable circumvention of the zoning regulations *based upon the character of the neighborhood*, 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 as the property has an old septic system and a new septic system constraining the possible location of any garage, and the significant setbacks restrict the land where additions could be placed to a small section of the lot, 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 the garage and additions are under construction and would need to be revised or demolished, and

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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 construction is new and was initiated after the adoption of the zoning regulation, and

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

Variance from Land Development Code Section 5.1.12.B.2.e.i to allow a structure to encroach into the required infill front yard setback:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the proposed garage does not obstruct the sight triangle at the corner, and

WHEREAS, the Board further finds that the requested variance will *not* alter the essential character of the general vicinity *detrimentally*, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the garage does not obstruct the sight triangle at the corner, and

WHEREAS, the Board further finds that the requested variance will *not* allow an unreasonable circumvention of the zoning regulations *based upon the character of the neighborhood*, 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 as the property has an old septic system and a new septic system constraining the possible location of any garage, and the significant setbacks restrict the land where additions could be placed to a small section of the lot, 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 the garage and additions are under construction and would need to be revised or demolished, 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 construction is new and was initiated after the adoption of the zoning regulation, and

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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 17VARIANCE1026 does hereby **APPROVE** Variance from Land Development Code Section 5.1.12.B.e.i to allow a structure to encroach into the required infill street side yard setback (**Requirement 50 ft., Request 2.15 ft., Variance 28.5 ft.**), and Variance from Land Development Code Section 5.1.12.B.2.e.i to allow a structure to encroach into the required infill front yard setback (**Requirement 65 ft., Request 36 ft., Variance 29 ft.**), based upon the site plan, the explanation of circumstances regarding the need to build the garage where it is, accepting the fact that it was an honest mistake that the permits were not granted, noting exception to the Staff Report page 3 of 6 and 4 of 6 regarding items (b) and (d), and the applicant's justification.

The vote was as follows:

Yes: Members Young, Vice Chair Jarboe, and Chair Allendorf

No: Member Fishman

Absent: Members Turner, Tharp, and Howard

00:59:18 Meeting was recessed.

00:59:45 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 14CUP1003

Request:	Minute Corrections & Status of two Conditions of Approval
Project Name:	Cabel Street
Location:	151 & 201 Cabel Street
Owner:	JBS USA, LLC & Swift Pork Company
Applicant:	JBS USA, LLC & Swift Pork Company
Representative:	Glenn Price
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Steve Hendrix, 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 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:

01:00:50 Steve Hendrix presented the case and responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Glenn Price, 400 W. Market, Louisville, KY 40202
Ray Carder, 151 Cabel Street, Louisville, KY 40206

Summary of testimony of those in favor:

01:03:15 Glenn Price spoke in favor of the request in regard to Item #1, Revision of Condition #18. Mr. Price explained what TRU's are. Mr. Price explained there was a typo in the minutes from the January 11, 2016 and attempted to load a video of that meeting. However, due to technical difficulties, no audio was available (see recording for detailed presentation).

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01:17:55 Paul Whitty, Legal Counsel, stated that since the audio from the January 11, 2016 meeting is not available, both the applicant and the opposition are agreeable to deferring this portion of their presentation to the next BOZA hearing, and we can proceed to hear the second part to have an update on the status of the Cabel Street lot (see recording for detailed presentation).

01:19:02 On a motion by Member Fishman, seconded by Vice Chair Jarboe, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 14CUP1003 in regard to the January 11, 2016 Minute Corrections (Item #1, Revision of Condition #18), does hereby **DEFER** this portion to the **July 24, 2017** Board of Zoning Adjustment meeting due to technical difficulties with the audio from that meeting.

The vote was as follows:

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

Testimony continued in favor of the request in regard to Item #2, Condition #3C – Landscaping

Summary of testimony of those in favor:

01:20:18 Glenn Price stated trees and shrubs were planted and some of those have been pulled out, although they do not know who removed them. Mr. Price stated they are going to replace the plantings (see recording for detailed presentation).

01:21:49 Glenn Price discussed Item #3 of the Request in regard to Condition #18 – Transportation Refrigeration Units (TRU's) and showed a Powerpoint presentation. Mr. Price responded to questions from the Board Members (see recording for detailed presentation).

01:27:32 Ray Carder responded to questions from the Board Members (see recording for detailed presentation).

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01:28:07 Glenn Price responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:
Nicholas Johnson, 910 Franklin Street, Louisville, KY

Summary of testimony of those in opposition:

01:31:15 Nicholas Johnson spoke in opposition of the request. Mr. Johnson stated he would like to ask what the process is for identifying any of the vehicles that are compliant with either the electric or hybrid condition that is currently within the conditions rather than just those with the diesel emissions. Mr. Johnson responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

01:33:52 Glenn Price spoke in rebuttal (see recording for detailed presentation).

01:35:25 **Board Members' deliberation**

01:37:30 On a motion by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 14CUP1003 in regard to Item #2 of the Request (Condition #3C – Landscaping), does hereby **CONTINUE** this portion to the **July 24, 2017** Board of Zoning Adjustment meeting. **NOTE:** The Board Members agreed that Item #3 of the Request in regard to Condition #18 (Transportation Refrigeration Units [TRU's]) shall be included with the first motion (**Time Stamp 01:19:02, Page 10 of these Minutes**), to be **DEFERRED** to the July 24, 2017 Board of Zoning Adjustment meeting.

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The vote was as follows:

Yes: Members Fishman, Young, Vice Chair Jarboe, and Chair Allendorf

Absent: Members Turner, Tharp, and Howard

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PUBLIC HEARING

CASE NUMBER 16CUP1001

Request:	AquaCode System Report
Project Name:	16CUP1001
Location:	1200 Story Avenue
Owner:	JBS USA, LLC & Swift Pork Company
Applicant:	JBS USA, LLC & Swift Pork Company
Representative:	Glenn Price
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Steve Hendrix, 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 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:
None.

The following spoke in favor of the request:
Dennis Conniff, 400 W. Market, Louisville, KY 40202
Tim Stern, 1200 Story Avenue, Louisville, KY 40202

Summary of testimony of those in favor:

01:39:30 Dennis Conniff spoke in favor of the request and provided an informational update. Mr. Conniff responded to questions from the Board Members (see recording for detailed presentation).

01:41:40 Tim Stern responded to questions from Chair Allendorf (see recording for detailed presentation).

01:42:47 Dennis Conniff provided additional information 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.

01:44:22 Board Members' deliberation

01:45:09 On a motion by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 16CUP1001, does hereby **ACKNOWLEDGE** receipt of the required report in regard to the AquaCode System, and does hereby **CONTINUE** the case to the **October 16, 2017** Board of Zoning Adjustment meeting for an additional update.

The vote was as follows:

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

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CASE NUMBER 17VARIANCE1032

Request:	Variance to allow attached signs in the C-2 zoning district to exceed 25 feet in height
Project Name:	Hilton Garden Inn
Location:	400 Sherburn Lane
Owner:	St. Matthews Hotel Partner
Applicant:	Matt Wilson – Chandler Signs
Representative:	Matt Wilson
Jurisdiction:	City of St. Matthews
Council District:	26 – Brent Ackerson
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:

01:49:28 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:

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

Summary of testimony of those in favor:

01:56:39 Nick Pregliasco spoke in favor of the request and showed a Powerpoint presentation. Mr. Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

02:05:07 Dante St. Germain noted an amendment to the Staff Report. Ms. St. Germain stated the Staff Report lists the Request as 61.5 feet but the

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elevations show the highest one is 65 feet, so the Variance Request instead of 36.5 feet should be 40 feet in order to cover both facades.

The following spoke in opposition of the request:

No one spoke.

02:05:46 Board Members' deliberation

02:06:09 On a motion by Member Fishman, seconded by Vice Chair Jarboe, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the signs will not obstruct sight lines and are unlikely to distract drivers, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as Mall St. Matthews is adjacent to the site, and signs on the mall buildings exceed 25 feet in height, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the signs will be steady in color and intensity, and are therefore unlikely to distract drivers, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the requirements of the zoning regulations as the two wall signs are appropriately scaled to the size of the building and do not draw unnecessary attention in comparison to the signs installed on neighboring businesses. The sign sizes proposed are proportionately designed in relation to the size of the hotel, 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 hotel under construction is taller than other nearby structures, and

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

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requiring the applicant to install the signs lower on the façades, and the building has been designed for signs at the top of the 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 as the hotel is new and under construction, and the building was designed after the zoning regulation was adopted, 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 17VARIANCE1032 does hereby **APPROVE** Variance from City of St. Matthews Development Code Section 11.D.2.c to allow attached signs in the C-2 zoning district to exceed a height of 25 feet above the ground (**Requirement 25 ft., Request 65 ft., Variance 40 ft.**), based upon the presentation, the Staff Report, and the client's justification.

The vote was as follows:

Yes: Members Fishman, Young, Vice Chair Jarboe, and Chair Allendorf

Absent: Members Turner, Tharp, and Howard

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CASE NUMBER 17VARIANCE1034

Request:	Variance to allow an accessory use area to exceed 60' in depth in a Traditional form district
Project Name:	1216 Hull Street Garage
Location:	1216 Hull Street
Owner:	Matthew Zajack
Applicant:	Matthew Zajack
Representative:	Matthew Zajack
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:

02:07:47 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:

Matthew Zajack, 1216 Hull Street, Louisville, KY 40204

Summary of testimony of those in favor:

02:11:28 Matthew Zajack 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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02:15:04 Board Members' deliberation

02:15:24 On a motion by Member Fishman, seconded by Vice Chair Jarboe, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the garage will be in the same general location as an existing shed, which has caused no known adverse effects, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as a shed currently exists in the location of the proposed garage, which has not altered the essential character of the neighborhood, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the garage will be in the same general position as an existing shed, which has caused no known hazard or nuisance, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the elevation change from the alley to the yard requires the garage to either be at the top of the slope or to be excavated into the slope, 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 elevation change from the alley to the yard creates a topographical constraint on the location and construction of any garage, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the applicant to remove established planting beds and excavate the slope to build the garage partially into it, a costly change to the applicant's development plan, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation

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from which relief is sought as the slope at the rear of the property was not created by the applicant, 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 17VARIANCE1034 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.E.1 to allow an accessory structure/use area to be more than 60 feet deep on a lot which exceeds 180 feet in depth (**Requirement 60 ft., Request 68.75 ft., Variance 8.75 ft.**), based upon the Staff Report, the discussion and the applicant's justification.

The vote was as follows:

Yes: Members Fishman, Young, Vice Chair Jarboe, and Chair Allendorf

Absent: Members Turner, Tharp, and Howard

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CASE NUMBER 17DEVPLAN1100

Request:	Variance from the Land Development Code section 5.2.2.C.2, table 5.2.2 to allow the proposed rear addition to encroach 3.3 feet into 5 foot required rear yard setback.
Project Name:	St. John Center
Location:	700 East Muhammad Ali Blvd.
Owner:	Maria Price – St. John Center Inc.
Applicant:	Maria Price – St. John Center Inc.
Representative:	Ashley Bartley – Qk4
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
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:

02:17:09 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:

Ashley Bartley, 1046 E. Chestnut Street, Louisville, KY 40204
Maria Price, 700 E. Muhammad Ali Blvd., Louisville, KY 40202

Summary of testimony of those in favor:

02:22:48 Ashley Bartley spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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02:24:11 Maria Price spoke in favor of the request (see recording for detailed presentation).

02:25:41 Ashley Bartley 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.

02:28:39 Board Members' deliberation

02:28:56 On a motion by Member Fishman, seconded by Vice Chair Jarboe, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the site distance from the alley in a vehicle is the only concern associated with the setback variance. Since, Clay Street has a setback that could be three feet (Street Side Yard Setback) and the current street side yard setback is 7.7 feet, site distance is actually better than code permits, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since this area is a mix of residential and institutional with a variety of setback patterns. It is not uncommon that a structure takes up the entirety of a parcel. Furthermore, the Downtown Form District has a boundary line found along the centerline of East Muhammad Ali Blvd., the Downtown Form District encourages a zero foot setback or building to the street wall, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the alley is approximately 17 feet wide, the site distance from the alley in a vehicle is the only concern associated with the setback variance. Since, Clay Street has a 3 foot street side yard setback requirement and the current setback is 7.7 feet, site distance is greater than the land development code permits, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because internal space

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and circulation will not be able to meet the needs of the facility without the variance, a small office space less than 8 feet in width, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone since this building is a retrofit of an old church and functions as a 501©3 non-profit with help from volunteers and donations. Relocating to a leger parcel is not an option, 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 retrofitting and adding onto a small parcel with no possibility for expansion of land creates the need to utilize as much of the land as possible for interior spaces, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the current structure was built before zoning laws were implemented in Louisville Metro/Jefferson County, KY, 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 17DEVPLAN1100 does hereby **APPROVE** Variance from Land Development Code Section 5.2.2.C.2, Table 5.2.2 to allow a proposed rear addition to encroach 3.3 feet into the required five foot rear yard setback (**Requirement 5 ft., Request 3.3 ft., Variance 1.7 ft.**), based upon the presentation, the Staff Report and the applicant's justification.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 16CUP1080

Request:	Conditional Use Permit to allow a short term rental that is not the primary residence of the owner in an R-5B zoning district
Project Name:	Short Term Rental
Location:	2216 Glenmary Ave.
Owner:	Yong Cha
Applicant:	Yong Cha
Representative:	Yong Cha
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Brian Mabry, AICP, Planning & Design Supervisor

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

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

Agency Testimony:

02:30:50 Brian Mabry presented the case and showed a Powerpoint presentation. Mr. Mabry responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Yong Cha, 2222 Glenmary Avenue, Louisville, KY 40204

Summary of testimony of those in favor:

02:35:18 Yong Cha 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.

02:38:42 Board Members' deliberation

02:38:54 On a motion by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

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

WHEREAS, the Board further finds that the proposal is compatible with its surroundings because the request only involves allowing a short term rental within the existing single-family dwelling. No additional development is proposed. As such, the proposal is compatible with the surrounding land uses with respect to height, bulk, scale, intensity, traffic, noise, odor, drainage, lighting and appearance, and

WHEREAS, the Board further finds that the subject property is in a developed area where public facilities are readily available. There were not any agency comments indicating that the property's existing public facilities are inadequate to serve a short term rental, 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. ***The applicant has been informed of this requirement. If a contract exceeds 29 consecutive days, it is not subject to the short term rental regulations. Long term rental contracts are permitted on the property so long as the use remains single-family residential.***

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- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. ***The applicant has been informed of this requirement. According to the applicant, the dwelling has four bedrooms and so the maximum number of individuals permitted in the short term rental is 12. The applicant has no plans to add bedrooms to the structure.***
- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted. ***The dwelling unit is a single-family residence.***
- 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. ***A single-family residence requires a minimum of one parking space. The subject property is wide enough to have credit for 3 on-street parking spaces and has one off-street parking space next to a detached garage in addition to one parking space within the garage. The applicants, who live immediately to the northeast of the subject property, have an 85-foot long driveway that could be used for parking for the short term rental if the need arose.***
- 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, 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 16CUP1080, does hereby **APPROVE** Conditional Use Permit to allow short term rental that is not the primary residence of the owner in an R-5B zoning district,

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based upon the Staff Report, the applicant's justification and the testimony, and **SUBJECT** to the following Condition of Approval:

Condition 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 shall register with the Louisville Metro Revenue Commission. 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 Fishman, Young, Vice Chair Jarboe, and Chair Allendorf

Absent: Members Turner, Tharp, and Howard

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CASE NUMBER 17CUP1024

Request:	Conditional Use Permit to allow mini-warehouses in a C-2 zoning district
Project Name:	None
Location:	4905 R Cooper Chapel Road
Owner:	Charles Davis, Jr. and Renay Davis
Applicant:	Jason Sams
Representative:	Jason Sams
Jurisdiction:	Louisville Metro
Council District:	24 – Madonna Flood
Case Manager:	Jon E. Crumbie, Planning and Design Coordinator

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

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

Agency Testimony:

02:40:30 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:

Jason Sams, 1517 Fabricon Blvd., Jeffersonville, IN 47130

Summary of testimony of those in favor:

02:44:35 Jason Sams spoke in favor of the request and showed a Powerpoint presentation. Mr. Sams 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.

02:49:07 Board Members' deliberation

02:49:36 On a motion by Vice Chair Jarboe, seconded by Member Young, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the property shall be landscaped so as to blend in with the surrounding area and shall be screened and buffered from adjacent uses of a non-industrial nature, and

WHEREAS, the Board further finds that no building, structure or pavement shall be located closer than 30 feet to side property lines or property lines abutting residential areas. This area is reserved as a landscape buffer area, and

WHEREAS, the Board further finds that no outside storage shall be allowed on the property, and

WHEREAS, the Board further finds that no storage of toxic or hazardous materials shall be allowed on the property, and

WHEREAS, the Board further finds that there shall be no retail or wholesale sales or distributing activities on site, and

WHEREAS, the Board further finds that no structure on the site shall be taller than one story and shall not exceed 15 feet in height (except for one freestanding sign as allowed in H below). **The 3-story structure will be 35 feet in height**, and

WHEREAS, the Board further finds that only one freestanding sign shall be allowed and shall conform to limits established for the form district in which the sign is located, and

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

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RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1024 does hereby **APPROVE** Conditional Use Permit to allow mini-warehouses in a C-2 zoning district, based upon the Staff Report, the applicant's testimony, site plan and justification statement, 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 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 as a mini-warehouse facility without further review and approval by the Board.

The vote was as follows:

Yes: Members Fishman, Young, and Vice Chair Jarboe

Abstain: Chair Allendorf

Absent: Members Turner, Tharp, and Howard

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CASE NUMBER 17CUP1028

Request:	Conditional Use Permit to allow a commercial kennel (dog training facility) in an M-1 zoning district.
Project Name:	Competitive Edge Agility and Dog Sports
Location:	4600 Shepherdsville Road
Owner:	Pinehurst Properties, LLP
Applicant:	Competitive Edge Agility and Dog Sports, LLC
Representative:	Chris Brown
Jurisdiction:	Louisville Metro
Council District:	2 – Barbara Shanklin
Case Manager:	Jon E. Crumbie, Planning and Design Coordinator

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

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

Agency Testimony:

02:51:06 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:

Tanner Nichols, 400 W. Market, Louisville, KY 40202

Summary of testimony of those in favor:

02:54:17 Tanner Nichols spoke in favor of the request and showed a Powerpoint presentation. Mr. Nichols 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.

02:57:35 Board Members' deliberation

02:58:36 On a motion by Vice Chair Jarboe, seconded by Member Young, 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. Landscaping was approved under prior development plans, and

WHEREAS, the Board further finds that the subject site will be compatible with the surrounding land uses with respect to scale, height, drainage, and appearance, and

WHEREAS, the Board further finds that the proposal has been reviewed by Public Works and MSD and both have approved the plan, and

WHEREAS, the Board further finds that:

Commercial kennels may be located in the R-R, R-E, R-1, R-2, R-3, R-4, C-1, C-2, C-M, M-1, M-2 or M-3 Districts where such use is compatible with surrounding land uses upon the granting of a Conditional Use Permit when developed in compliance with the listed requirements. There are six requirements and five will be met. **Item e. does not apply since all activity is located inside the facility.**

- a. All facilities, except parking, shall be at least thirty feet from any property line.
- b. All facilities, except parking, shall be within a totally enclosed building except where it can be demonstrated that a nuisance is not created thereby.
- c. Except in districts where signs are allowed, there shall be no more than one non-illuminated sign not to exceed twelve square feet in area and not to exceed six feet in height.
- d. All roads and parking areas shall be surfaced with a hard and durable material and properly drained.

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- e. A woven wire fence at least six feet high shall be erected around the portion of the site used for the kennel operation.
- f. Off-street parking spaces shall be provided in the ratio of one space for every 1 1/2 employees plus six spaces for visitors, 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 17CUP1028 does hereby **APPROVE** Conditional Use Permit to allow a commercial kennel in an M-1 zoning district, based upon the Staff Report, the applicant's representative testimony, the applicant's justification, 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 and approval by the Board.
- 3. 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 as commercial kennel (dog training facility) without further review and approval by the Board.

The vote was as follows:

Yes: Members Fishman, Young, and Vice Chair Jarboe

Abstain: Chair Allendorf

Absent: Members Turner, Tharp, and Howard

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CASE NUMBER 17CUP1031

Request:	Conditional Use Permit to allow a short term rental that is not the primary residence of the host in an R-5 zoning district
Project Name:	Short Term Rental
Location:	1273 Farmdale Avenue
Owner:	Luke Skeen
Applicant:	Luke Skeen
Representative:	Luke Skeen
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
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:

03:00:40 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:

Luke Skeen, 1223 Valley Drive, Louisville, KY 40213

Summary of testimony of those in favor:

03:03:43 Luke Skeen 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:

Jess Bray, 1244 Springdale Drive, Louisville, KY 40213

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Summary of testimony of those in opposition:

03:06:27 Jess Bray stated he was not speaking in opposition because he thinks this was a case of mistaken identity. Mr. Bray stated he thought the applicant was a person who had been rehabbing homes on his street that he has not been impressed with. Mr. Bray stated he just hopes he operates in a manner that will please his neighbors (see recording for detailed presentation).

REBUTTAL:

03:08:25 Mr. Skeen spoke in rebuttal (see recording for detailed presentation).

03:09:10 Board Members' deliberation

03:09:36 On a motion by Vice Chair Jarboe, seconded by Member Young, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal does not conflict with Comprehensive Plan policies, and

WHEREAS, the Board further finds that the proposal is compatible with surrounding development. No exterior alterations to the existing structure or site are proposed, 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:

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- 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 three-bedrooms. By regulation, it can accommodate up to ten guests.***
- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted. ***The dwelling unit is a single-family residence.***
- 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 can accommodate up to two vehicles via on-street parking. The driveway can accommodate up to four vehicles, with one more inside the garage.***
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6, 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 17CUP1031 does here **APPROVE** Conditional Use Permit to allow short term

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rental of a dwelling unit that is not the primary residence of the owner in an R-5 Single-Family Residential zoning district, based upon the Staff Report, the applicant's testimony, the applicant's justification, and **SUBJECT** to the following Condition of Approval:

Condition 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 shall establish an account with the Louisville Metro Revenue Commission. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.

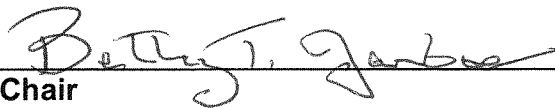
The vote was as follows:


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

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ADJOURNMENT

The meeting adjourned at approximately 11:55 a.m.


Chair


Secretary