

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

May 2, 2016

A meeting of the Louisville Metro Board of Zoning Adjustment was held on May 2, 2016 at 8:30 a.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

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

Staff Members Present:

Emily Liu, Director, Planning & Design Services
Joe Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning & Design Manager
Steve Hendrix, Planning & Design Supervisor
Julia Williams, Planner II
Laura Mattingly-Humphrey, Planner I
Ross Allen, Planner I
Joel Dock, Planner I
Jon Crumbie, Planning & Design Coordinator
John Carroll, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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Training/Business Session APCD_Presentation

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

8:30 a.m. The Louisville Metro Air Pollution Control District presented a training session explaining the services provided by their department (see recording for detailed presentation).

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APPROVAL OF MINUTES

NOTE: The regular meeting of the Louisville Metro Board of Zoning Adjustment began at 10:00 a.m.

April 18, 2016 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:02:19 On a motion by Member Fishman, seconded by Member Bergmann, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on April 18, 2016.

The vote was as follows:

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

Abstain: Vice Chair Jarboe and Member Tharp

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CASE NUMBER 16VARIANCE1013

Request:	Variance from the Land Development Code to allow the construction of a proposed dormer to encroach into the minimum side yard setback.
Project Name:	1904 Stevens Avenue
Location:	1904 Stevens Avenue
Owner:	John Gatchel
Applicant:	John Gatchel
Representative:	John Gatchel
Jurisdiction:	Louisville Metro
Council District:	8 – Tom Owen
Case Manager:	Ross Allen, Planner I

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

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

Agency Testimony:

00:03:24 Ross Allen requested a continuance of this case on behalf of the applicant (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Dan Madryga, 414 Baxter Avenue, Suite 101, Louisville, KY 40205

Summary of testimony of those in favor:

00:04:14 Dan Madryga spoke on behalf of the applicant. Mr. Madryga stated unfortunately they've had another delay and the surveyors were not able to complete the survey before this hearing date. Mr. Madryga stated they will be

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able to get this done before May 10, which he believes is before the next hearing. Chair Allendorf stated the next BOZA meeting will be May 16, and Mr. Madryga stated they would have the survey by then (see recording for detailed presentation).

The following spoke in opposition to the request:

Shirley Lazrovitch, 1902 Stevens Avenue, Louisville, KY 40205

Summary of testimony of those in opposition:

00:06:25 Shirley Lazrovitch spoke in opposition to the request. Ms. Lazrovitch presented pictures she had taken of the property (see recording for detailed presentation).

REBUTTAL:

00:10:08 Dan Madryga spoke in rebuttal. Mr. Madryga stated there will be no changes to those windows, they are all existing and will all stay in the same place. Mr. Madryga stated they will make sure they are reflected on the plans they submit at the next hearing. Mr. Madryga stated they are not going to add any windows to that side either (see recording for detailed presentation).

Board Members' deliberation

00:11:38 On a motion by Member Bergmann, seconded by Member Fishman, the following resolution was adopted:

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RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 16VARIANCE1013 to the May 16, 2016 Board of Zoning Adjustment meeting.

The vote was as follows:

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

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CASE NUMBER 16DEVPLAN1030

Request:	Category 2B Development Plan with Variance and Waivers
Project Name:	Ironworkers Education Facility
Location:	2441 Crittenden Drive
Owner:	Tom Carrier, Ironworkers Local #70
Applicant:	Tom Carrier, Ironworkers Local #70
Representative:	John Miller, Miller Wihry
Jurisdiction:	Louisville Metro
Council District:	15 – Marianne Butler
Case Manager:	Laura Mattingly-Humphrey, 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:

00:13:10 Laura Mattingly-Humphrey presented the case and showed a Powerpoint presentation. Ms. Mattingly-Humphrey responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

John Miller, 1387 S. 4th Street, Louisville, KY 40208
Tom Carrier, 8009 Judge Blvd., Louisville, KY 40219

Summary of testimony of those in favor:

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00:22:47 John Miller spoke on behalf of the applicant in favor of the request (see recording for detailed presentation).

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

00:31:36 John Miller continued to speak in favor of the request. Mr. Miller explained the need for the Variance and Waivers, and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

00:37:57 Board Members' deliberation

00:45:37 On a motion by Vice Chair Jarboe, seconded by Board Member Fishman, the following resolution was adopted:

Variance from Section 5.2.2 to allow the proposed building to be located beyond the maximum front setback (**Requirement 25'; Request 50'; Variance 25'**):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as safe pedestrian and vehicular access is provided from the public right-of-way, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposed setback follows a pattern of varied setbacks along Crittenden Drive and follows the pattern of this specific development, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as safe pedestrian access is provided from the

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public right-of-way to the building entrance and safe vehicular access and maneuvering have been provided, and

WHEREAS, the Board further finds that the requested variances will not allow an unreasonable circumvention of the zoning regulations as the proposed setback will follow a pattern of varying setbacks within the area, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as this site has size constraints that similar uses are not normally faced with. This site also had non-conforming parking issues that the applicant has had to correct, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as the facility would not be able to be built at this site as proposed and the applicant may have to re-locate, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the size of the lot and the parking issues existed prior to the current regulation; and

WAIVER #1 from Section 5.9.2.A.1.b.ii to not provide a vehicular connection to abutting non-residential use on the north side of the property:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as connection is being provided to the south through an access easement, the property to the north has its own access to the public right-of-way and currently does not have connection to the development site due to a guardrail in place, and

WHEREAS, the Board further finds that Guideline 2, policy 13 calls to encourage adjacent development sites to share entrance and parking facilities in order to reduce the number of curb cuts and the amount of surface parking. Guideline 7, policy 13 calls for the requirement of joint and cross access easements according to standards set forth in the Land Development Code, to

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reduce traffic on major thoroughfares and to reduce safety hazards. The purpose of the requirements to be waived are to allow similar, compatible non-residential and multi-family uses to access adjacent sites without use of the main road to reduce curb cuts, the amount of surface parking, and to reduce traffic on the main thoroughfare. These policies are not violated as the development is providing a shared access with the property to the south. The property to the north already has access in place and it would not be safe for traffic to access this site at the available point due to the traffic pattern of the proposed VUA, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant to allow the layout of the parking and building as the use requires, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by requiring the applicant to lose much needed parking for access that is not safe for vehicular traffic; and

WAIVER #2 from Section 5.5.1.A.3 to allow parking to be located in front of the building within a Traditional Form District:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as safe vehicular and pedestrian access is being provided and is being improved from the current layout, and

WHEREAS, the Board further finds that Guideline 2, policy 15 states to encourage the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Guideline 3, policy 1 states to ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. Guideline 9, policy 1 states that new development and redevelopment should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with location of retail and office uses, especially in the Traditional Neighborhood, Village, Marketplace Corridor, Traditional Workplace Form Districts close to the roadway to minimize the distance pedestrians and transit

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users have to travel. The purpose of the requirement is to promote mass transit and pedestrian use and reduce vehicle trips in and around the site, and to reduce the distance pedestrians and transit users have to travel. Although the waiver is not compatible with the pattern of development within the traditional neighborhood form district, it is compatible with surrounding existing development. There does appear to be physical restraints preventing compliance with the regulations to be waived. Therefore, the waivers will not violate specific guidelines and policies of Cornerstone 2020, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant to allow the layout of the building to incorporate the proposed uses within the needed square footage, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by requiring the parking to be in rear of the development; therefore restricting the vehicle use area to the large trucks to deliver needed materials to the site and causing a decrease in much needed square footage of the building; and

WAIVER #3 from Section 10.2.4 to allow structure and parking to encroach into the required 15' LBA along the eastern property line:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as the new expansion allows for the 15' LBA and required planting. The rest of the site in regards to the required LBA is existing and will be unchanged, and

WHEREAS, the Board further finds that Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles,

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illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. This plan does violate a number of these guidelines in regards to the existing portion of the site, but has mitigated the impacts as much as possible by allowing the required buffer and planting the required screening where possible, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the applicant has conformed to the regulation on the proposed portion of the site, and

WHEREAS, the Board further find that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by requiring an existing building to be partially demolished in order to allow the LBA; and

WAIVER #4 from Section 10.2.10 to allow parking to encroach into the required 5' LBA along the western property line:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since safe pedestrian and vehicular access will be provided from the public right-of-way to the building entrance and has been improved from the current situation, and

WHEREAS, the Board further finds that the waiver will not violate guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas

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so as not to negatively impact nearby residents and pedestrians, and for parking areas adjacent to streets to be screened and buffered. The waiver will not violate guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way. The applicant is providing streetscape improvements and buffering where possible and is improving the streetscape from the current layout; therefore the waiver is not violating specific guidelines of the comprehensive plan, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant to allow the needed layout of the parking and vehicle maneuvering, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by not allowing a wide enough VUA for parking and material delivery; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** Case Number 16DEVPLAN1030 Variance from Section 5.2.2 to allow the proposed building to be located beyond the maximum front setback **(Requirement 25'; Request 50'; Variance 25')**, Waiver #1 from Section 5.9.2.A.1.b.ii to not provide a vehicular connection to abutting non-residential use on the north side of the property, Waiver #2 from Section 5.5.1.A.3 to allow parking to be located in front of the building within a Traditional Form District, Waiver #3 from Section 10.2.4 to allow structure and parking to encroach into the required 15' LBA along the eastern property line, and Waiver #4 from Section 10.2.10 to allow parking to encroach into the required 5' LBA along the western property line, based on the staff report, site plan and testimony of the applicant.

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The vote was as follows:

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

Recused: Member Tharp

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CASE NUMBER 16VARIANCE1019

Request:	Variance from LDC section 5.4.1.D.2 to allow a private yard area to be less than the required percentage (30%) as the result of a rear addition to the principal structure.
Project Name:	2201 Boulevard Napoleon
Location:	2201 Boulevard Napoleon
Owner:	Andrew and Meredith Koon
Applicant:	Meredith Koon
Representative:	Tim Winters - Architect
Jurisdiction:	Louisville Metro
Council District:	8 – Tom Owen
Case Manager:	Ross Allen, Planner I

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

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

Agency Testimony:

00:48:44 Ross Allen presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Andrew Koon, 2201 Boulevard Napoleon, Louisville, KY

Summary of testimony of those in favor:

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00:51:46 Andrew Koon spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

00:54:51 Board Members' deliberation

00:55:46 Public Hearing reopened to hear further comments from Mr. Koon (see recording for detailed presentation).

00:56:06 Board Members' deliberation

00:56:27 On a motion by Board Member Howard, seconded by Board Member Fishman, 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 private yard area after the addition would be roughly 412 square feet less than the required 30%. Furthermore, neither the addition nor the reduction in private yard area pose a public health, safety or welfare issue since the private yard area is enclosed by a fence, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since several homes in the general vicinity seem to have less than the required private yard area minimum requirements met, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the rear addition and the reduction in the private yard area are to be enclosed with an existing fence which minimizes the visual impact on adjacent property owners, and

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WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the reduction in private yard area by approximately 412 square feet has no impact upon the general vicinity or the R-5 zoning district, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone since several homes in the general vicinity have less than the required private yard area, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since the private yard area and proposed addition are both enclosed by a fence and within the setbacks as required by the LDC for the Traditional neighborhood form district, 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 since the applicant is requesting the variance and has not constructed any addition to date; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1019, does hereby **APPROVE** the Variance from LDC Section 5.4.1.D.2 to allow a private yard area to be less than the required percentage (**Requirement 2415 sq. ft. [30%]; Request 2003 sq. ft. [25%]; Variance 412 sq. ft. [5%]**) as the result of a rear addition to the principal structure, based on the Staff Report, the applicant's presentation and the testimony heard today.

The vote was as follows:

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

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CASE NUMBER 16VARIANCE1021

Request:	Variance to allow an addition to the principal structure to encroach into the minimum side yard setback.
Project Name:	3004 Sherbrooke Road
Location:	3004 Sherbrooke Road
Owner:	William and Sharon Higgins
Applicant:	William and Sharon Higgins
Representative:	William and Sharon Higgins
Jurisdiction:	Louisville Metro
Council District:	8 – Tom Owen
Case Manager:	Ross Allen, Planner I

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

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

Agency Testimony:

00:58:32 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:

William Higgins, 3004 Sherbrooke Road, Louisville, KY 40205

Summary of testimony of those in favor:

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01:11:04 William Higgins spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

Tim Weatherholt, 3002 Sherbrooke Road, Louisville, KY 40205

Summary of testimony of those in opposition:

01:18:45 Tim Weatherholt spoke in opposition to the request and responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

01:26:51 William Higgins spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

01:33:56 Board Members' deliberation

01:48:20 Public Hearing reopened to hear further comments from Mr. Higgins (see recording for detailed presentation).

01:53:58 Public Hearing continued to hear further comments from Mr. Weatherholt (see recording for detailed presentation).

01:56:21 Board Members' deliberation

01:59:48 On a motion by Vice Chair Jarboe, seconded by Member Turner, the following resolution was adopted:

Variance from LDC Section 5.3.1 table 5.3.1 Dimensional Standards – Residential Development to encroach into the minimum required side yard

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setbacks along the north and south property lines (**Requirement NORTH 5'; Request NORTH 2'; Variance NORTH 3'; Requirement SOUTH 5'; Request SOUTH 4.33'; Variance SOUTH .67' or 8 inches**):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare

since the applicant will have building materials that are to fire code and the addition will match the principal structure façade, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since in other homes along the block have equal or greater than the square footage for similar sized parcels. The proposed addition would add 8' feet of width to rear side of the home along the southern property boundary and another 4.92' ft. to the northern side of the property, widening the view of the property from the street frontage, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the applicant has proposed to use materials that meet fire and building code, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the applicant has the required private yard area remaining and is within the zoning district requirements for Floor Area Ratio (.5), and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone since homes along the block have equal or greater than the square footage for similar sized parcels, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant since the addition would allow the applicant's to consolidate existing uses in the home into one level for the purpose of agedness, and

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WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the applicant has made no alterations to the principal structure prior to seeking approval for the variances requested; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** Case Number 16VARIANCE1021, Variance from LDC Section 5.3.1 table 5.3.1 Dimensional Standards – Residential Development to encroach into the minimum required side yard setbacks along the north and south property lines (**Requirement NORTH 5’; Request NORTH 2’; Variance NORTH 3’; Requirement SOUTH 5’; Request SOUTH 4.33’; Variance SOUTH .67’ or 8 inches**), based on the applicant’s justification for the use of the property and an acknowledgement that the variances are not extreme and out of character for the neighborhood.

The vote was as follows:

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

No: Member Bergmann

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CASE NUMBER 16VARIANCE1023

Request: Variance to permit the building to not be located more than 5' from the corner of Taylor Blvd. & Bluegrass Ave.
Project Name: Burger King
Location: 1309/1311 Bluegrass Ave. & 4170 Taylor Blvd.
Owner: Estate of Erma Shrader
Applicant: Boos Development Group
Representative: Miller Wihry; Bardenwerper Talbott and Roberts PLLC
Jurisdiction: Louisville Metro
Council District: 15 – Marianne Butler
Case Manager: Julia Williams, RLA, 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:

02:02:53 Julia Williams presented the case and showed a Powerpoint presentation. Ms. Williams 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 40207

Summary of testimony of those in favor:

02:13:17 Nick Pregliasco spoke in favor of the request and referred to a Powerpoint presentation. Mr. Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

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02:22:18 Board Members' deliberation

02:27:32 Public Hearing reopened to hear further comments from Mr. Pregliasco in regard to the retaining wall (see recording for detailed presentation).

02:28:12 Board Members' deliberation

02:28:31 On a motion by Member Fishman, seconded by Member Tharp, 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 safe pedestrian access is provided from the public rights-of-way to the building entrance, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity. The site is located in a Traditional Neighborhood form district which requires non-residential structures to be constructed close to the street with parking to the side and rear. There are a few properties in the vicinity that were constructed prior to the adoption of the regulation. The variance is being mitigated by the 3' wall that will be provided along the perimeter at the corner and along both adjacent roadways, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since safe pedestrian access is provided from the public rights-of-way to the building entrance and since safe vehicular maneuvering has been provided, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulation since the variance is being mitigated by the 3' wall that will be provided along the perimeter at the corner and along both adjacent roadways, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances that do not generally apply to land in the general vicinity or the same zone. There have been other similar variances granted in the general vicinity to allow a new non-residential building to be setback away from a street with parking between the building and the street. There are no physical site restrictions preventing compliance with the setback requirement. The variance is

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being mitigated by the 3' wall that will be provided along the perimeter at the corner and along both adjacent roadways, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land or create an unnecessary hardship on the applicant since the variance is being mitigated by the 3' wall that will be provided along the perimeter at the corner and along both adjacent roadways, 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; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment in Case Number 16VARIANCE1023 does hereby **APPROVE** Variance from 5.5.1.A.2 to permit the proposed building to be located more than 5' from the rights of way of both Bluegrass Ave. and Taylor Blvd. as shown on the development plan, based on the Staff Report.

The vote was as follows:

NOTE: Member Bergmann left at approximately 12:09 p.m., therefore, did not vote on this case or any of the following cases.

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

Absent: Bergmann

02:31:03 The meeting was recessed.

02:31:15 The meeting was reconvened.

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CASE NUMBER 16DEVPLAN1001

Request: Variance from the Land Development Code to allow a proposed structure to be located beyond the maximum setback; waivers of design criteria; landscape waivers; and Category 2B Development Plan

Project Name: Shalimar

Location: 1025 West Broadway

Owner: Stry Lenkoff Company

Applicant: Sukh Bains, Shalimar Investments

Representative: Bill Bardenwerper

Jurisdiction: Louisville Metro

Council District: 4 – David Tandy

Case Manager: Sherie' Long, Landscape Architect

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:

02:31:45 Steve Hendrix presented the case on behalf of the Case Manager, Sherie' Long and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Louisville, KY 40207
Ann Richard, 403 Washburn Ave., Louisville, KY 40222

Summary of testimony of those in favor:

02:40:10 Nick Pregliasco spoke in favor of the request and referred to a Powerpoint presentation (see recording for detailed presentation).

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02:52:47 Ann Richard spoke in favor of the request and referred to a Powerpoint presentation (see recording for detailed presentation).

02:54:31 Mr. Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

02:57:34 Ann Richard responded to questions from the Board Members (see recording for detailed presentation).

02:58:00 Mr. Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

03:00:25 **Board Members' deliberation**

03:02:07 **Public Hearing reopened to hear further comments from Mr. Pregliasco (see recording for detailed presentation).**

03:02:31 **Board Members' deliberation**

03:11:51 On a motion by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

Variance from the Land Development Code, Section 5.2.3.D.3.a, to allow the building to exceed the maximum 15' setback (**Requirement 15'; Request 107'; Variance 92'**):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the variance requested allows the proposed gas/convenience/restaurant building to be located where convenience store buildings are universally located, behind the gas pump canopy. Varying from the maximum build-to line will not adversely affect the public health, safety, or welfare, and

WHEREAS, the Board further finds that the existing character of the general vicinity is mixed commercial, often with parking in front or to the side of the buildings. The proposed development does not alter this character of the surrounding area and sets the building where the traveling public expects a gas station to be, and

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WHEREAS, the Board further finds that the variance will not cause a hazard or nuisance due to the proposed development being laid out on the site where the traveling public expects a gas station to be located and where the gas canopy's lighting is blocked from the residential area to the north of the site by the proposed building, and

WHEREAS, the Board further finds that if the variance is requested it will not allow an unreasonable circumvention of the requirements, many buildings along the West Broadway corridor are of equal setback to what is being proposed and is where the traveling public anticipates the layout and location of a gas station, and

WHEREAS, the Board further finds that due to the nature of gas/service stations the gas pump canopy is generally located in front of the gas/service station building. There are no other gas/service stations in the vicinity, the closest one has a setback greater than what is being requested by this proposed development, and

WHEREAS, the Board further finds that were the developer to follow the strict application of the code, the construction of a new building would not be allowed due to the universal site design principles for gasoline stations and drive-thru restaurants, and

WHEREAS, the Board further finds that the circumstances are the result of applicant actions after the adoption of the regulation from which a variance is being requested; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16DEVPLAN1001, does hereby **APPROVE** Variance #1, Variance from the Land Development Code Section 5.2.3.D.3.a to allow the building to exceed the maximum 15' setback (**Requirement 15'; Request 107'; Variance 92'**), based on the applicant's justification for this Variance due to the stated issues of moving large trucks in for filling the gas wells as needed.

The vote was as follows:

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

Absent: Bergmann

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Waiver #1, Waiver of the Land Development Code Section 5.5.1.A.3.a and 5.9.2.C.4 to allow parking in front of the building and to allow the parking to be closer to the right-of-way than the building:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver allows the proposed development to construct the gas station in the typical gas station layout. There are at least two existing gas/service stations on West Broadway that have this same typical layout. The waiver will not adversely affect adjacent property owners, due to the proposed layout matching existing service stations in the area and setting up the proposed gas station in the layout format familiar to the vehicular traffic user, and

WHEREAS, the Board further finds that the waiver is within the guidelines of the Comprehensive Plan by allowing the proposed development to create a compatible and supporting use for the surrounding neighborhood and corridor, safe on-site vehicular circulation, and connections to other uses, and

WHEREAS, the Board further finds that to meet the required parking while keeping the standard gas station layout which the vehicular user finds typical and easy to maneuver, and allowing the proposed development to utilize the two existing curb cuts on West Broadway and two new curb cuts on Esquire Alley; the waiver is the minimum necessary to give relief to the applicant, and

WHEREAS, the Board further finds that the strict application of this section of the LDC would create an unnecessary hardship on the applicant due to the dimensions of the lot and the standard layout of gas/service stations. Altering the layout of the gas station to place the parking to the sides of the building would necessitate altering the existing curb cuts from West Broadway and would create unsafe vehicular and pedestrian traffic within the site and from the site to West Broadway; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16DEVPLAN1001, does hereby **APPROVE** Waiver #1, Waiver of the Land Development Code Section 5.5.1.A.3.a and 5.9.2.C.4 to allow parking in front of the building and to allow the parking to be closer to the right-of-way than the building, based on the applicant's justification statement that the configuration of the gas pump locations and the store require parking in front of the building.

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The vote was as follows:

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

Absent: Bergmann

Waiver #2, Waiver of the Land Development Code Section 5.5.1.A.5 to allow the gas pump canopy to be located between the building and the public street:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver allows the proposed development to construct the gas station in the typical gas station layout. There are at least two existing gas/service stations on West Broadway that have this same typical layout. The waiver will not adversely affect adjacent property owners, due to the proposed layout matching existing service stations in the area and setting up the proposed gas station in the layout format familiar to the vehicular traffic user, and

WHEREAS, the Board further finds that the waiver is within the guidelines of the Comprehensive Plan by allowing the proposed development to create a compatible and supporting use for the surrounding neighborhood and corridor, safe on-site vehicular circulation, and connections to other uses, and

WHEREAS, the Board further finds that in order for the applicant to keep both existing curb cuts open for vehicular circulation and easing access on and off the site, to allow the proposed uses for the development, and to offer to the public the standard gas/service station site layout which the driving public finds typical for developments of this type, the waiver must be utilized to give relief to the applicant, and

WHEREAS, the Board further finds that the strict application of this section of the LDC would create an unnecessary hardship on the applicant due to the dimensions of the lot and the standard layout of gas/service stations. Altering the layout of the gas station to place the canopy and related gas pumps to the side of the building would necessitate altering the existing curb cuts from West Broadway and would create unsafe vehicular traffic within the site and from the site to West Broadway; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16DEVPLAN1001, does hereby **APPROVE** Waiver #2, Waiver of the Land Development Code Section 5.5.1.A.5 to allow the gas pump canopy to be

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located between the building and the public street, based on the applicant's justification statement for the necessity of having the gas pump canopy located near the street for filling.

The vote was as follows:

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

Absent: Bergmann

Waiver #3, Waiver of the Land Development Code Section 5.7.1.B.3.a to allow the drive-thru lane to encroach into the required 15' rear buffer yard and Waiver #4, Waiver of the Land Development Code Section 10.2.10 to allow the required 15' Landscape Buffer Area along the property perimeter adjacent to Esquire Alley to be reduced to 10':

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since 10' of buffer plantings will be provided to separate the new development from the existing residential development. This buffer planting also mitigates the encroachment of the drive thru lane into the required 15' Rear Buffer Yard, and

WHEREAS, the Board further finds that Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of

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development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. There is minimum encroachment of the drive thru lane into the required Buffer Yard. All the required perimeter plantings, trees and shrubs, will be provided as required therefore, the waiver request does not violate the comprehensive plan, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the encroachment is minimal and all the plantings, trees and shrubs, are being provided in the 10 foot landscape area, and

WHEREAS, the Board further finds that the applicant has incorporated other design measures to compensate for non-compliance with the requirements to be waived. All the required plantings, trees and shrubs, will be provided along the perimeter; and

Waiver #5, Waiver of the Land Development Code Section 5.6.1.C.1 to not provide 50% glass along the north building façade:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested waiver will not adversely affect adjacent property owners since the applicant has provided simulated windows/glass and the required 75 percentage of façade animation along the rear, and

WHEREAS, the Board further finds that Guideline 3, policy 1 and 2 calls for the compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. The type of building materials may be considered as a mitigation measure and may also be considered in circumstances specified in the Land Development Code. When assessing compatibility, it is appropriate to consider the choice of building materials in the following circumstances: (1) projects involving residential infill (2) projects involving non-residential uses; and (3) when specified in the Land Development Code. The proposal is for a non-residential use. The Land Development Code provides building design standards for non-residential and mixed use buildings. The purpose of the regulation is to provide visual interest and a human scale that are representative of the form district through the use of windows, columns, pilasters, piers, variation of material, entrances, storefront windows, and other animating features along no less than 75% of the façade and 50% of the façade along the street

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frontage be clear windows and doors. Since the applicant is providing simulated glass in addition to providing the required 75 percent animated features, the waiver request does not violate the comprehensive plan, and

WHEREAS, the Board further finds that The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the applicant has provided the required animated features to the façade and also provided simulated glass to mitigation the request, and

WHEREAS, the Board further finds that the applicant has incorporated other design measures, simulated glass in addition to the 75percent animated features, to compensate for non-compliance with the requirements to be waived; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16DEVPLAN1001, does hereby **APPROVE** Waiver #3, Waiver of the Land Development Code Section 5.7.1.B.3.a to allow the drive-thru lane to encroach into the required 15' rear buffer yard, Waiver #4, Waiver of the Land Development Code Section 10.2.10 to allow the required 15' Landscape Buffer Area along the property perimeter adjacent to Esquire Alley to be reduced to 10', and Waiver #5, Waiver of the Land Development Code Section 5.6.1.C.1 to not provide 50% glass along the north building façade, based on the Staff Report's concurrence with the site plan and the testimony of the applicant.

The vote was as follows:

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

Absent: Bergmann

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CASE NUMBER 16WAIVER1009

Request:	Exceptional signage authorization
Project Name:	Springs at Hurstbourne
Location:	9120 Blowing Tree Road
Owner:	Continental Properties Inc.
Applicant:	Continental Properties Inc. – Sara Johnson
Representative:	Continental Properties Inc. – Sara Johnson
Jurisdiction:	Louisville Metro
Council District:	18 – Marilyn Parker
Case Manager:	Joel P. Dock, Planner I

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

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

Agency Testimony:

03:18:34 Joel Dock presented the case and showed a Powerpoint presentation. Mr. Dock responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Louisville, KY 40207

Summary of testimony of those in favor:

03:27:28 Nick Pregliasco spoke in favor of the request. Mr. Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

The following spoke neither for nor against this request:

Sean Fore, 1808 Addington Avenue, Louisville, KY 40220

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Summary of testimony of those neither for nor against:

03:33:04 Sean Fore, the Mayor of Hurstbourne Acres, spoke on behalf of some of the residents, neither for nor against the request (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

03:34:38 Board Members' deliberation

03:36:52 On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the sign authorization will not adversely affect adjacent property owners as the proposed signage is located roughly 350' from the nearest single-family residential property. The proposed 2-story multi-family structure to the West may also provide some additional screening of the signage from residential properties on Blowing Tree Road. Property with the nearest proximity is used for offices in the OR-3 zoning district, and

WHEREAS, the Board further finds that Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. The sign authorization will not violate specific guidelines of Cornerstone 2020 as the proposed signage is located a significant distance from the nearest single-family residential property and is surrounded by a mixture of compatible uses with and without signage. The proposed signage does not appear to be incompatible with the character of the surrounding residential areas as the signage is at a point of

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transition between single-family residential, office, and multi-family residential uses, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the LDC fails to regulate residential signage in the Campus form district, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant as the LDC does not prohibit or permit the proposed signage and authorization of the signage has been appropriately requested; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16WAIVER1009, does hereby **APPROVE** the Exceptional Signage Authorization based on the Standard of Review and Staff Analysis on page 2 and 3 of the Staff Report, the presentation and the justification from the applicant's booklet, and **SUBJECT** to the following Binding Elements:

Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The density of the development shall not exceed 14.62 dwelling units per acre **(284 units on 19.43 acres)**.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.

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4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Develop Louisville Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 19th, 2015 Planning Commission meeting.
7. The proposed zone change will affect a previously undocumented historic resource. Since this site is proposed to be developed, the applicant shall ensure that the site will be documented at the National Register level which includes photographs and a historic

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context. Staff can provide a list of preservation professionals that would be qualified to complete the type of documentation requested. All materials shall be completed and submitted to Historic Preservation Staff prior to ground disturbance and demolition.

8. The developer shall connect to the existing Blowing Tree Road for the sole purpose of allowing locked gate access for emergency responders
9. The locked gate access on Blowing Tree Road shall not be modified to allow access to and from the site from Blowing Tree Road as a way of accessing Taylorsville Road.
10. The developer shall install MUTCD compliant barriers at the end of Blowing Tree Road, next to lot 123, to prevent current Blowing Tree Road from being extended formally or informally through to Bunsen Parkway
11. The developer shall remove the graveled roadway that currently extends Blowing Tree Road north beyond Lot 123, and sod and landscape area.
12. Applicant shall dedicate the area shown as “reserved” on the detailed district development plan to public right of way prior to construction plan approval and agree to maintain the dedicated property until the earlier of such time as Louisville Metro Public Works agrees in writing to accept maintenance of the dedicated property or construction commences on the planned connector road running between Taylorsville Road and Bunsen Parkway (Stony Brook/Blowing Tree).
13. Property owner shall be responsible for the site entrance reconstruction within their property limits to accommodate the future Blowing Tree and Bunsen Pkwy extensions.
14. The hatched area within the future Bunsen Parkway Corridor shall be dedicated at the owner’s expense within 60 days of written request from Public Works for the Kentucky Transportation Cabinet.

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The vote was as follows:

NOTE: Member Tharp left at approximately 1:34 p.m., therefore did not vote on this case or the following case.

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

Absent: Bergmann and Tharp

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CASE NUMBER 15CUP1004

Request:	Conditional Use Permit to allow a boarding home in an R-6 zoning district
Project Name:	None
Location:	526 Heywood Avenue
Owner:	Ayman Ismail & Omar Al-Kashkish
Applicant:	Ayman Ismail & Omar Al-Kashkish
Representative:	Bill Schroll
Jurisdiction:	Louisville Metro
Council District:	15 – Marianne Butler
Case Manager:	Jon E. Crumbie, Planning and Design Coordinator

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

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

Agency Testimony:

03:39:17 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:

Bill Schroll, 5450 Southview Drive, Louisville, KY 40214
Ayman Ismail, 10609 Hite Rd., Louisville, KY 40241

Summary of testimony of those in favor:

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03:42:50 Bill Schroll spoke on behalf of the applicant in favor of the request (see recording for detailed presentation).

03:45:12 Ayman Ismail spoke in favor of the request. Mr. Ismail responded to questions from the Board Members (see recording for detailed presentation).

The following spoke neither for nor against the request:

Susan Hughes, 601 W. Jefferson Street, Louisville, KY 40202

Summary of Testimony of those neither for nor against:

03:56:00 Susan Hughes, Legislative Assistant for Councilwoman Marianne Butler, spoke neither for nor against the request. Ms. Hughes stated there were four points she wanted to review today; 1) the planting of additional trees, 2) adequate trash receptacles, 3) on-site manager at all times, 4) no outside storage on the property. Ms. Hughes responded to questions from the Board Members (see recording for detailed presentation).

Rebuttal:

03:58:33 Bill Schroll spoke in rebuttal and addressed Ms. Hughes comments. Mr. Schroll also responded to questions from the Board Members (see recording for detailed presentation).

03:59:58 Board Members' deliberation

04:02:34 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. The proposal under Guideline 3.B.2: The proposal preserves an existing

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structure that is consistent with the predominate neighborhood building design. The applicant will be asking to not provide additional landscaping and keep the site as is. No new lighting will be added, and

WHEREAS, the Board further finds that the subject site is located in an area that has a number of residential uses. This proposal will be compatible with these uses with respect to intensity, traffic, noise, drainage, lighting and appearance, and

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

WHEREAS, based on the staff report, testimony during the public hearing and Board discussion, the proposal is in compliance with section 4.2.11 of the Land Development Code, which regulates Boarding and Lodging Houses, specifically addressing the issue of Item G, the Board of Zoning Adjustment does take into account the lack of legal boarding or lodging houses, transitional houses, homeless shelters or rehabilitation homes within a half mile of the property, and Item J on page 3, the Board of Zoning Adjustment shall, to the best of its ability, find that the establishment of the facility will not result in harm to the health, safety or general welfare of the surrounding neighborhood because of the manner in which the boarding house is being conducted with a resident manager on site and the responsibility of the land owner, and Item K, the Board of Zoning Adjustment shall find that the facility is compatible with the character of the surrounding neighborhood; the surrounding neighborhood being residential in nature justifies the establishment of a Conditional Use Permit for a boarding house in a residential neighborhood; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 15CUP1004, does hereby **APPROVE** the Conditional Use Permit to allow a boarding home in an R-6 Zoning District, based upon the Standard of Review and Staff Analysis for Conditional Use Permits on pages 2 and 3 of the staff report, and **SUBJECT** to the following Conditions of Approval:

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Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be “exercised” as described in KRS 100.237 within two years of the Board’s vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a boarding home without further review and approval by the Board.
3. There shall be a maximum number of 6 tenants and 1 property manager living on site at any given time.
4. The applicant shall submit a plan for planting of tree(s), which is the only landscaping requirement to be approved by staff.
5. There shall be no external outdoor storage on the site.

The vote was as follows:

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

Absent: Bergmann and Tharp

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ADJOURNMENT

The meeting adjourned at approximately 2:24 p.m.

Chair

Secretary