

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

July 11, 2016

A meeting of the Louisville Metro Board of Zoning Adjustment was held on July 11, 2016 at 8:30 a.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Mike Allendorf, Chair (left at approximately 1:44 p.m.)
Betty Jarboe, Vice Chair
Rosalind Fishman, Secretary
Lester Turner
Paul Bergmann
Lula Howard
Dean Tharp

Staff Members Present:

Emily Liu, Planning Director (arrived at approximately 11:43 a.m.)
Steve Hendrix, Planning & Design Supervisor
Ross Allen, Planner I
Joel Dock, Planner I
Jon Baker, Legal Counsel (left at approximately 2:20 p.m.)
John Carroll, Legal Counsel (arrived at approximately 2:20 p.m.)
Sue Reid, Management Assistant

The following cases were heard:

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

July 11, 2016

BOZA ANNUAL ELECTION OF OFFICERS

00:02:49 On a motion by Member Turner, seconded by Member Howard, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **ELECT** Mike Allendorf as Chair of the Board of Zoning Adjustment. **NOTE: No other nominations were offered.**

The vote was as follows:

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

00:03:34 On a motion by Member Fishman, seconded by Member Tharp, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **ELECT** Betty Jarboe as Vice Chair of the Board of Zoning Adjustment. **NOTE: No other nominations were offered.**

The vote was as follows:

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

00:04:03 On a motion by Vice Chair Jarboe, seconded by Member Tharp, the following resolution was adopted:

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

July 11, 2016

BOZA ANNUAL ELECTION OF OFFICERS

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **ELECT** Rosalind Fishman as Secretary of the Board of Zoning Adjustment.

NOTE: No other nominations were offered.

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

APPROVAL OF MINUTES

June 20, 2016 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:06:34 On a motion by Vice Chair Jarboe, 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 June 20, 2016, with a **CORRECTION** to page 7 as noted by Member Howard.

The vote was as follows:

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

Abstain: Member Tharp

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16VARIANCE1034

Request:	Variance from LDC section 4.4.3.A.1.a.i to allow a fence to exceed the 42 inches height in the front yard.
Project Name:	1036 Mulberry Street
Location:	1036 Mulberry Street
Owner:	Chase Harber and Meredith Cunningham
Applicant:	Charles Cunningham
Representative:	Charles Cunningham
Jurisdiction:	Louisville Metro
Council District:	10– Pat Mulvihill
Case Manager:	Ross Allen, Planner I

NOTE: This case was heard out of order, as the second Public Hearing item.

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:

00:25:32 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:

Meredith Cunningham, 1036 Mulberry Street, Louisville, KY

Summary of testimony of those in favor:

00:29:56 Meredith Cunningham spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16VARIANCE1034

The following spoke in opposition to the request:

No one spoke.

00:32:52 Board Members' deliberation

00:34:07 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 requested variance will not adversely affect the public health, safety or welfare since the proposed 60 inch fence is outside of the sight triangle at the intersection of Mulberry and Hickory Street. Additionally, the fence, as shown on the applicant's site plan would be two feet from the property line and not adversely affect public health, safety, or welfare along the public right of way adjacent to the fence along Hickory Street, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since homes located at the corner of Hickory St. and Lydia St. have a wooden fence along Hickory St. Homes located at Hickory and Milton Streets, Mulberry and McHenry Streets, and Texas and Burnett Avenues also have fences in the general vicinity, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the proposed 60 inch fence is outside of the sight triangle at the intersection of Mulberry and Hickory Street. Additionally, the fence, as shown on the applicant's site plan would be two feet from the property line, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the fence poses no risk to the public welfare, health, or safety nor obstructs views near alley or street corners, 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 other homes in the general vicinity have fences similar to what the applicant is proposing, and

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16VARIANCE1034

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 fence is allowed up to 42 inches in street side yard within the Traditional Neighborhood Form District. The applicant's proposed fence has a height of 18 inches more than what would be required by LDC. Furthermore, the applicant states that fence is for the control and access for a large dog and dogs are common to the area, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the applicants recently purchased the property and have not made any attempts to construct a fence in the street side yard without the required variance; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1034, does hereby **APPROVE** the Variance from the Land Development Code section 4.4.3.A.1.a.i to allow a proposed fence to exceed 42 inches in height in the street side yard (**Requirement 42"**, **Request 60"**, **Variance 18"**), based on the staff presentation, the Standard of Review and Analysis for Variances on Page 2 and the Additional Considerations on Pages 2 and 3, the discussion, the site plan and the applicant's points.

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16VARIANCE1037

Request:	Variance from LDC section 4.4.3.A.1.a.i to allow a fence to exceed the 42 inches height in the street side yard.
Project Name:	104 South 36 th Street
Location:	104 South 36 th Street
Owner:	Shirley Parker
Applicant:	Shirley Parker
Representative:	Shirley Parker
Jurisdiction:	Louisville Metro
Council District:	5– Cheri Bryant Hamilton
Case Manager:	Ross Allen, Planner I

NOTE: This case was heard out of order, as the first Public Hearing item.

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:

00:07:55 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:

Shirley Parker, 104 South 36th Street, Louisville, KY 40212

Summary of testimony of those in favor:

00:19:44 Shirley Parker spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16VARIANCE1037

The following spoke in opposition to the request:

No one spoke.

00:22:38 Board Members' deliberation

00:23:16 On a motion by Vice Chair Jarboe, seconded by Member Bergmann, 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 proposed 48 inch aluminum fence along South 36th Street frontage will be within the applicant's property and will not obstruct 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 since one other property located to the north has a chain link fence of approximately 4 feet in height (48 inches) in the front yard, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the proposed fence will be within the applicant's property and will not obstruct the public right of way, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the land development code allows for fences of up to 42 inches in height and the applicant is requesting 6 inches more than what code requires, 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 other homes in the general vicinity have fences similar in height to what the applicant is proposing, 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 fence is allowed up to 42 inches in the front yard within the Traditional Neighborhood Form District. The applicant's proposed fence has a height of 6 inches more than what would be required by LDC. Furthermore, the applicant states that fence is to help prevent trespassing and property damage, and

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16VARIANCE1037

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 applicants recently purchased the property and have not made any attempts to construct a fence in the front yard without the required variance; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1037, does hereby **APPROVE** the Variance from the Land Development Code section 4.4.3.A.1.a.i to allow a proposed fence to exceed 42 inches in height in the front yard (**Requirement 42"**, **Request 48"**, **Variance 6"**), based upon the staff report, the applicant's justification and the Standard of Review and Analysis on pages 2 and 3.

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16VARIANCE1039

Request:	Variance from LDC section 5.4.1.D.3 to allow a reduction in the private yard area due to a proposed attached garage.
Project Name:	Garage 1827 Deer Park Avenue
Location:	1827 Deer Park Avenue
Owner:	Stepheni Wilson
Applicant:	Phillip Mass
Representative:	Phillip Mass
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:

00:36:59 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:

Stepheni Wilson, 1827 Deer Park Avenue, Louisville, KY 40205
Phillip Mass

Summary of testimony of those in favor:

00:48:52 Stepheni Wilson spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16VARIANCE1039

00:54:23 Phillip Mass 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.

00:56:22 Board Members' deliberation

00:57:17 On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the proposed attached garage will not impede public view or alley access at the rear of the property, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since many homes in the general vicinity have detached garages. The width of the applicant's lot is 25 feet wide (elongated) requiring any addition to elongate the principal structure and further reduce private yard area. The applicant states that the façade will blend with the existing house and property of adjoining homes and detached garages, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the garage is within the applicant's property and does not impede on any function of public or private property, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the addition of the attached garage is not counted towards the Floor Area Ratio calculation as defined in the LDC definition, 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 the applicant's lot size of 2466 sf. is small in area and the elongation of the lot further limits the applicant from constructing any detached or attached structure, and

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16VARIANCE1039

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 proposed addition of the attached garage would increase the building footprint, not be counted in the Floor Area Ratio, and reduce the minimum Private Yard Area. The private yard area reduction, of approximately 63%, can be attributed to the lot size, namely, the width of 25 feet, requiring the applicant to construct onto the rear of the principal structure. The construction of a detached garage would also be limited and would require the applicant to request a separate variance for the rear yard setbacks, 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 applicant has not undertaken any construction of the proposed attached garage; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1039, does hereby **APPROVE** the Variance from the Land Development Code Section 5.4.1.D.3 to allow a proposed attached garage to reduce the private yard area (**Requirement 20% of total lot area [530 sf], Request Approximately 37% of PYA [196 sf], Variance Approximately 63% of PYA [334 sf]**), based on the staff report, the presentation by staff, the testimony of the applicant and the Standard of Review and Staff Analysis for Variances on Pages 2 and 3.

The vote was as follows:

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

00:59:18 The meeting was recessed.

00:59:37 The meeting was reconvened.

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16VARIANCE1033

Request: Variance from LDC section 5.3.2.C.2.b to allow a cooler to encroach into the into the required 25 foot minimum setback from the rear property line and a waiver from LDC section 10.2 4 to allow the cooling unit to encroach into the required Landscape Buffer Area.

Project Name: 4810 Dixie Highway
Location: 4810 Dixie Highway
Owner: Edwin Montgomery – Montgomery Commercial Properties
Applicant: Marv Blomquist – Blomquist Design Group LLC.
Representative: Marv Blomquist – Blomquist Design Group LLC.
Jurisdiction: Louisville Metro
Council District: 12– Rick Blackwell
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:

01:00:27 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:

Marv Blomquist, 10529 Timberwood Circle, Suite D, Louisville, KY 40223
Clay Manley, 211 Waterstone Way, Louisville, KY 40205
Councilman Rick Blackwell

Summary of testimony of those in favor:

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16VARIANCE1033

01:06:35 Marv Blomquist spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:12:55 Clay Manley described the cooling unit, and responded to questions from the Board Members (see recording for detailed presentation).

01:14:00 Marv Blomquist responded to further questions from the Board Members (see recording for detailed presentation).

01:15:46 Councilman Rick Blackwell spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

01:17:37 Board Members' deliberation

01:18:53 On a motion by Member Howard, seconded by Member Fishman, the following resolution was adopted:

VARIANCE from the Land Development Code Section 5.4.2.C.3.a to allow a proposed cooling unit to encroach into the 25' required rear 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 since the concrete cooler pad would be 16 feet from the closest residential property line and attached to the rear of the existing building. The cooler pad would be screened by existing trees along the rear property line and an 8 feet proposed screen by the applicant. Last the cooling unit would not be accessible from the outside, only from inside the ice cream parlor, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the requested cooler pad would be screened from the rear neighbors by existing trees and an 8 ft. screen as proposed by the applicant, and

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16VARIANCE1033

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the cooling unit would only be accessible from inside the tenants leased space and is not accessible from outside of the building, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the requested cooling pad and cooler would be located at the rear of the building and would be properly screened. The entire building has a setback that conforms to the required rear yard setback, 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 the requested cooling pad and cooler are proposed for an ice cream parlor and the parcel is zoned allowing such as land use within this zoning type, 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 the potential loss of a lease to the property owner resulting in the ice cream parlor not being able to locate in the suggested space at the subject property, 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 requested variance is for the specific use by an ice cream parlor; and

WAIVER from LDC Section 10.2.4 to allow the cooling unit to encroach into the required Landscape Buffer Area:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the requested cooler unit will be screened from rear neighbors by the existing tree line and an 8 ft. screen as proposed by the applicant, 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

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16VARIANCE1033

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 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. The proposed cooling unit and concrete pad will be screened by the existing trees found to the rear of the property and is only accessible from inside the building. Furthermore, there is an eight foot chain link fence with screening strips which is in the rear abutting the residential properties, 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 is requesting a reduced LBA for the ice cream parlor cooler and has proposed screening in order to mitigate potential visual impact to adjacent residential properties, 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 since the denial of the waiver would result in the loss of business to the landlord and the potential impact of business brought to the area and other surrounding businesses could be negatively impacted; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1033, does hereby **APPROVE** the Variance from the Land Development Code Section 5.4.2.C.3.a to allow a proposed cooling unit to encroach into the 25' required rear yard setback (**Requirement 25', Request 16', Variance 9'**), and Waiver from LDC Section 10.2.4 to allow the cooling unit to encroach into the required Landscape Buffer Area (**Requirement 25', Request 16', Variance 9'**), based on the staff report pages 2, 3 and 4, testimony and evidence provided at the hearing, and that the proposal meets the Standards

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16VARIANCE1033

for granting Variances established in the Land Development Code Section 5.4.2.C.3.a and the Waiver from the Land Development Code Section 10.2.4, and that the Encroachment Permit from MSD will be made part of the file upon receipt.

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16VARIANCE1044

Request:	Variance from LDC section 5.2.2 to allow a reduction in the private yard area due to a proposed two story addition to the principal structure.
Project Name:	88 Valley Road
Location:	88 Valley Road
Owner:	Donna and Glenn McCoy
Applicant:	Donna and Glenn McCoy
Representative:	Donna and Glenn McCoy
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:

01:25:37 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:

Glenn McCoy, 1912 Whitewood Ridge Drive, Louisville, KY 40245
Donna McCoy, 1912 Whitewood Ridge Drive, Louisville, KY 40245

Summary of testimony of those in favor:

01:30:54 Glenn McCoy spoke in favor of the request and responded to questions from the Board Members. Mr. McCoy stated they do have signatures from all of their neighbors (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16VARIANCE1044

01:35:01 Mr. Allen stated that the deadline for submittal would have been June 20th and they did not have the signatures by that time. As a result Public Notification had already been sent out as well as a posting on the property. Mr. Allen stated they do have the signatures, but it couldn't have gone to a non-public hearing as a result of that (see recording for detailed presentation).

01:35:40 Mr. McCoy responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

01:37:20 Board Members' deliberation

01:38:08 On a motion by Vice Chair Jarboe, seconded by Member Bergmann, 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 proposed addition is similar in side yard setback to properties in the general vicinity, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since homes in the area have setbacks less than that required by the LDC and other with greater setbacks than required, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the home sits approximately 114 ft. from the road frontage and has no other structures within a distance of approximately 70' ft., and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since many homes in the general vicinity sit at odd angles to the lot frontage and setbacks vary from house to house along Valley Road, 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

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16VARIANCE1044

vicinity or the same zone since many homes in the general vicinity sit at odd angles to the lot frontage and setbacks vary from house to house along Valley Road, 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 proposed addition sits approximately 114 ft. from the road frontage and has no other structures within a distance of approximately 70 ft. allowing space between structures, 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 addition has not been built to date; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment in Case Number 16VARIANCE1044 does hereby **APPROVE** the Variance from the Land Development Code Section 5.2.2 to allow a proposed addition of a two story living space to encroach into the 6' minimum side yard setback (**Requirement 6', Request 2', Variance 4'**), based upon the staff report, the site plans, the testimony of the applicant and staff conclusions.

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16WAIVER1017

Request:	Exceptional signage review for The Nine private student housing
Project Name:	The Nine
Location:	1900 S. Floyd Street
Owner:	908 Development Group
Applicant:	Tull Signs – Kevin Tull
Representative:	Tull Signs – Kevin Tull
Jurisdiction:	Louisville Metro
Council District:	6– David James
Case Manager:	Joel 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:

01:40:03 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:

No one spoke.

The following spoke in opposition to the request:

No one spoke.

01:48:34 Board Members' deliberation

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16WAIVER1017

02:33:44 On a motion by Vice Chair Jarboe, seconded by Member Turner, 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 will not be visible from single-family residential dwellings and will be located in an area of mixed research, institutional, commercial, and athletic facility uses, 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 not visible from single-family residential dwellings and is surrounded by a mixture of compatible uses with and without signage. The proposed signage appears to be compatible with the character of the surrounding area and with similar signage existing for private student housing around the university as the proposed signs are consistent with the building style of this development and existing private student housing adjoining the University, 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 16WAIVER1017, does hereby **APPROVE** the Exceptional Signage for authorization of proposed attached and freestanding signage, based on staff's recommendations regarding the sign plan as submitted by the developer and

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16WAIVER1017

Paragraph 1 of the Case Summary on Page 1 that includes the description of the sign as it relates to the development plan.

The vote was as follows:

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

No: Member Bergmann

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16CUP1015

Request:	Conditional Use Permit to allow an accessory apartment in a R-5 zoning district
Project Name:	None
Location:	1832 Alfresco Place
Owner:	Danielle Oatley
Applicant:	Danielle Oatley
Representative:	Danielle Oatley
Jurisdiction:	Louisville Metro
Council District:	8 – Tom Owen
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:

02:37:09 Steve Hendrix presented the case on behalf of the Case Manager, Jon Crumbie, and showed a Powerpoint presentation. Mr. Hendrix responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Danielle Oatley, 1832 Alfresco Place, Louisville, KY 40205

Summary of testimony of those in favor:

02:40:08 Danielle Oatley 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:

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16CUP1015

Charles Buccola, 1814 Rutherford Avenue, Louisville, KY 40205

Summary of testimony of those in opposition:

02:45:27 Charles Buccola spoke in opposition to the request and responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

02:50:25 Danielle Oatley spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

02:53:19 Ms. Oatley and Steve Hendrix spoke in regard to the landscaping on the property (see recording for detailed presentation).

02:54:11 Ms. Oatley responded to further questions from the Board Members (see recording for detailed presentation).

03:01:52 Board Members' deliberation

03:03:19 On a motion by Vice Chair Jarboe, seconded by Member Bergmann, 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 preserves the existing grid pattern of streets, sidewalks, and alleys. Also the proposal is generally compatible within the scale and site design of nearby detached garages and with the form district's pattern of development, and

WHEREAS, the Board further finds that the proposal is compatible with the surrounding land uses with respect to height, bulk, scale, intensity, traffic, noise, drainage, lighting, and appearance, and

WHEREAS, the Board further finds that transportation Planning and MSD have reviewed and approved the proposal. The Louisville Fire District #4 did

BOARD OF ZONING ADJUSTMENT MINUTES

July 11, 2016

PUBLIC HEARING

CASE NUMBER 16CUP1015

comment on the proposal and will require a wrecking permit to remove the existing garage, and

WHEREAS, the Board further finds that:

- A. The principal and accessory dwellings shall be owned by the same person(s). Occupancy of the accessory unit shall occur only while the property owner(s) resides in the principal dwelling on the premises. **The owner would like to live in either the house or accessory apartment.**
- B. The accessory apartment shall be no greater than 650 sq. ft. or 30% of the floor area of the principal residence, whichever is greater. **The accessory apartment will be 1,040 square feet.**
- C. If the accessory apartment is located in a freestanding structure, it shall not exceed the height of the principal residence. In the TNFD, permissible height shall be as allowed by the form district regulation, unless the Board approves a differing height. In all other form districts, if the freestanding structure is located within 25 feet of a property line, the height of the structure shall not exceed the average height of accessory structures on abutting parcels or 15 feet, whichever is greater, unless the Board finds that a different height limit is appropriate.
- D. Sites having accessory apartments shall provide off-street parking for the principal and accessory apartment as follows:
 - 1. Neighborhood Form District - at least three off-street spaces provided on the lot, no more than two spaces outdoors;
 - 2. Traditional Neighborhood - at least one off-street space provided on the lot; and
 - 3. Other form districts - at least two off-street spaces provided on the lot; the Board may require additional parking spaces as appropriate; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1015, does hereby **APPROVE** the Conditional Use Permit to allow an accessory apartment in a R-5 zoning district, based on the Land Development Code Sections defined in Item 4, page 2 of the Staff Report and noting that Item 4-A on page 3 of the Staff Report shall allow the owner the

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16CUP1015

flexibility to live in either the house or the accessory apartment, and Item 4-B on page 3 of the Staff Report shall grant the **EXCEPTION** to the size of the accessory apartment that it can be 1,040 square feet which exceeds the 30% of the floor area of the principal residence, and **SUBJECT** to the Conditions of Approval on page 14 of the Staff Report, Items 1 and 2, and that the existing landscaping is sufficient.

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 an accessory apartment without further review and approval by the Board.

The vote was as follows:

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

03:06:40 The meeting was recessed.

03:06:55 The meeting was reconvened.

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 15APPEAL1002

Request:	Appeal of a Notice of Violation issued by the Department of Codes and Regulations, the establishment of a nonconforming use with a change to another nonconforming use
Project Name:	Nonconformance
Location:	1234 Boyle Street
Owner:	Ray Ackerman
Applicant:	Ray Ackerman
Representative:	Ray Ackerman
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
Case Manager:	Steve Hendrix, Planning and Design Supervisor

NOTE: This case was heard out of order, as Item #11 on the Agenda.

NOTE: Jon Baker left at approximately 2:20 p.m. and John Carroll arrived at approximately 2:20 p.m.

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:

05:15:26 Steve Hendrix presented the case and showed a Powerpoint presentation. Mr. Hendrix responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the appeal:
No one spoke.

The following spoke neither for nor against the appeal:

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 15APPEAL1002

No one spoke.

The following spoke in favor of the appeal:

Raymond Ackerman, 1255 Eastern Parkway, Louisville, KY 40204

Councilman Pat Mulvihill, 3305 Audubon Ridge Drive, Louisville, KY 40213

Summary of testimony of those in favor of the appeal:

05:24:39 Raymond Ackerman spoke in favor of the appeal. Mr. Ackerman responded to questions from the Board Members (see recording for detailed presentation).

05:30:31 Councilman Pat Mulvihill spoke in favor of the appeal (see recording for detailed presentation).

05:32:16 Steve Hendrix stated that the office has been there since 1971, and the violations have been removed.

05:32:35 Board Members' deliberation

05:34:14 On a motion by Member Howard, seconded by Member Tharp, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment in Case Number 15APPEAL1002, does hereby **APPROVE** the appeal, noting that the **Notice of Violation** issued by the Department of Codes and Regulations was **PROPER at the time** and that the violations have been resolved, and also the **ESTABLISHMENT** of Nonconforming Use with a change to another Nonconforming Use, noting that the new use (office with display of millwork products) will be no more odious or offensive to surrounding properties than the previous use.

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 15APPEAL1002

The vote was as follows:

Note: Chair Allendorf left at approximately 1:44 p.m., therefore, did not vote on this case.

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

Absent: Chair Allendorf

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16APPEAL1006

Request:	Appeal of an administrative action that determined a structure to be a religious building
Project Name:	Appeal
Location:	500 Caldwell Street
Owner:	Pescador, LLC
Applicant:	Travis Provencher Family Trust
Representative:	Ryan Fenwick
Jurisdiction:	Louisville Metro
Council District:	4 – David Tandy
Case Manager:	Steve Hendrix, Planning and Design Supervisor

NOTE: This case was heard out of order, as Item #10 on the Agenda

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

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

Agency Testimony:

03:08:33 Steve Hendrix presented the case and showed a Powerpoint presentation. Mr. Hendrix responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in response to agency testimony presented by Mr. Hendrix:

Ryan Fenwick, 1217 Logan Street, Louisville, KY 40204

Summary of testimony:

03:11:06 Ryan Fenwick asked Mr. Hendrix if there was any history of this site being used as a church or otherwise as a religious building (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES

July 11, 2016

PUBLIC HEARING

CASE NUMBER 16APPEAL1006

03:11:25 Mr. Hendrix stated he is not familiar with it being used at all (see recording for detailed presentation).

The following spoke in opposition to the appeal:

Chris Sanders, 1228 E. Breckenridge Street, Louisville, KY 40204

Dennis Stilger, 6000 Brownsboro Park Blvd., Suite H, Louisville, KY 40207

Curtis Taylor, 500 E. Caldwell Street, Louisville, KY 40203

Summary of testimony of those in opposition:

03:12:39 Chris Sanders spoke in opposition to the appeal and stated they agree with the staff assessment that the property at 500 East Caldwell Street is a religious building. Mr. Sanders explained the work that is being done is Christian social ministries and that it is a ministry of St. Francis of the Fields Episcopal Church. Mr. Sanders responded to questions from the Board Members (see recording for detailed presentation).

03:16:00 Curtis Taylor spoke in opposition to the appeal. Mr. Taylor explained the work that he is doing. Mr. Taylor responded to questions from the Board Members (see recording for detailed presentation).

03:25:47 Chris Sanders stated this is very much in its early stages, and he thinks it would be premature at this time to state what the hours of operation will be (see recording for detailed presentation).

03:26:15 Dennis Stilger spoke in opposition to the appeal (see recording for detailed presentation).

03:26:55 Mr. Taylor responded to questions from the Board Members (see recording for detailed presentation).

03:30:30 Mr. Stilger responded to questions from the Board Members (see recording for detailed presentation).

03:32:40 Mr. Taylor responded to questions from the Board Members (see recording for detailed presentation).

Cross-Examination:

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16APPEAL1006

NOTE: Dave Marchal, Develop Louisville, 444 S. 5th Street, Louisville, KY 40202, spoke during this portion of the testimony.

03:34:03 Ryan Fenwick asked if there is any formal agreement with St. Francis of the Fields, as in any proof that they're formally affiliated (see recording for detailed presentation).

03:34:15 Chris Sanders stated St. Francis of the Fields is the primary sponsor of this organization and Loaves and Fishes is a ministry of St. Francis of the Fields. Mr. Sanders stated St. Francis of the Fields members created Pescador, LLC and all the members of the Board of Directors are members of St. Francis of the Fields (see recording for detailed presentation).

03:34:49 Mr. Fenwick asked if Loaves and Fishes will pay rent to Pescador, LLC.

03:34:55 Mr. Sanders said he does not know why that is relevant.

03:35:00 Mr. Fenwick stated he asked because an LLC is a for profit business; generally churches and places of worship operate as non-profit.

03:35:14 Mr. Sanders stated they are not a for profit organization, they don't charge for meals.

03:35:24 Mr. Fenwick asked why would you not partner with any of the three facilities that serve food to the homeless or downtrodden in the neighborhood; why would you make a fourth facility in the neighborhood to provide this service.

03:35:41 Mr. Sanders stated they've been serving meals at the Salvation Army two block away for fifteen years, so what they're doing is providing a facility to do what they've always been doing. Mr. Sanders stated they're not looking to expand serving that meal, what they're doing is trying to create a good space to do that in; having said that, they're looking for partners.

03:36:17 Mr. Fenwick stated on the original building permit the property was listed as a soup kitchen; the use the applicant gave to the city was as a soup kitchen. Mr. Fenwick stated that was later modified. He asked for an explanation as to why the modification came about.

03:36:34 Mr. Sanders said in discussions between Pescador and staff there was discussion about whether this is a church, whether it's a soup kitchen, whether it's providing any kind of social ministries, and the language has

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16APPEAL1006

amended itself over time in order to properly describe what we truly are, which is a Christian social ministry.

03:37:00 Mr. Fenwick asked if staff revoked the original permit that listed the use as a soup kitchen.

03:37:08 Mr. Sanders said he does not know, maybe staff can answer that.

03:37:31 Dave Marchal, Building Official with Develop Louisville stated the building permit was originally issued listing a soup kitchen. Mr. Marchal stated once they realized there was a conflict with zoning, they were made aware of that by staff with Planning and Design Services, then they reached out to the owner/applicant team and advised them of the discrepancy and the need to get that straightened out. Mr. Marchal stated they did that by clarifying what the use was going to be and then the conversation ensued and processed through Planning and Design Services. Mr. Marchal stated they didn't formally put a stop work order since the applicant and contractor team was actively involved in resolving the issue (see recording for detailed presentation).

03:38:49 Mr. Fenwick asked if the reason for the modification of the permit was so that the applicant wouldn't have to go through a Conditional Use Permit.

03:39:01 Mr. Marchal stated the building permit was modified to recognize the new information that they received from the applicant/contractor team via Planning and Design Services as to the nature of the use of the property, expanding it beyond the initial soup kitchen which was in their initial description to include the religious facility.

The following spoke neither for nor against the appeal:

Randall Webber, 325 E. Kentucky Street, Louisville, KY 40203
George Stinson, 6523 Longview Lane, Louisville, KY

Summary of testimony of those neither for nor against the appeal:

03:40:10 Randall Webber spoke neither for nor against the appeal. Mr. Webber responded to questions from the Board Members (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16APPEAL1006

03:48:30 George Stinson spoke neither for nor against the appeal. Mr. Stinson responded to questions from the Board Members (see recording for detailed presentation).

Cross-Examination:

04:04:09 Mr. Sanders asked Mr. Stinson if he would be pleased to know that when Mr. Taylor begins serving his meals on Saturday afternoons he's going to be serving them inside his facility as opposed to his concern about people being outside.

04:04:39 Mr. Stinson stated that as he said to Mr. Turner, he would be pleased to invite him into his home to have something to eat, but in order to get into his home, how does the person get there, and how does Mr. Taylor have the outreach for the people.

04:05:09 Mr. Sanders stated that if he understands the answer, it is that serving inside is better than serving outside, is that correct?

04:05:16 Mr. Stinson said yes.

The following spoke in favor of the appeal:

Ryan Fenwick, 1217 Logan Street, Louisville, KY 40204

Travis Provencher, 937 S. Jackson Street, Louisville, KY

Martina Kunnecke, 2729 Northwestern Parkway, Louisville, KY 40212

Summary of testimony of those in favor of the appeal:

04:05:56 Ryan Fenwick spoke in favor of the appeal. Mr. Fenwick stated he would like to submit the affidavit submitted by the applicant, the About Us page from Loaves and Fishes, Inc. website, and a letter of opposition submitted by the Smoketown Neighborhood Association. Mr. Fenwick stated the Land Development Code makes it very clear that a religious building means a house of worship and buildings associated with it. Mr. Fenwick stated he would charge the Board to not belabor the point of what religious worship is. Mr. Fenwick stated here we have an applicant that wants to feed the poor. Mr. Fenwick stated he concedes happily that it is both good and Christian to feed the poor. However, the Land Development Code has to be interpreted by the plain meanings of the words. Mr. Fenwick stated the applicant in this appeal is a Limited Liability Company, Pescador, LLC. Mr. Fenwick stated he believes that

BOARD OF ZONING ADJUSTMENT MINUTES

July 11, 2016

PUBLIC HEARING

CASE NUMBER 16APPEAL1006

they're a soup kitchen that plans to call itself a church with the primary motive being to avoid going through the Conditional Use process before this Board (see recording for detailed presentation).

04:12:31 Travis Provencher spoke in favor of the appeal (see recording for detailed presentation).

04:21:03 Martina Kunnecke spoke in favor of the appeal (see recording for detailed presentation).

REBUTTAL – THOSE IN OPPOSITION TO THE APPEAL:

04:30:04 Dennis Stilger spoke in rebuttal. Mr. Stilger responded to questions from the Board Members (see recording for detailed presentation).

04:33:55 Chris Sanders spoke in rebuttal. Mr. Sanders responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL – THOSE IN FAVOR OF THE APPEAL:

04:36:56 Ryan Fenwick spoke in rebuttal (see recording for detailed presentation).

04:38:50 Board Members' deliberation

04:51:03 Mr. Sanders stated he would like to raise a legal matter to Mr. Baker. Mr. Sanders stated that as a person trained in theology as well as law, as Mr. Webber eluded to concerning the First Amendment of the Constitution, that a governmental agency determining whether or not something is in fact religion, may very well bleed over into an impermissible area of your authority. Mr. Sanders stated he's heard it said during these deliberations that it's just social services. Mr. Sanders stated that to say that Christian social services is only social services and not religious behavior may very well be stepping outside your legal authority (see recording for detailed presentation).

04:52:25 Mr. Fenwick stated respectfully he would like to object. Mr. Fenwick stated that opposing counsel seeks to introduce testimony inappropriately in Business Session (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES

July 11, 2016

PUBLIC HEARING

CASE NUMBER 16APPEAL1006

04:52:50 Jon Baker, Legal Counsel, stated he does not think this Board is off base with its analysis as it respects reviewing the land use that is looking to locate at this parcel. Mr. Baker stated we are still within the purview of this Board's authority as well as its review as relates to this appeal. With that said, they have noted their objections on the record and Mr. Fenwick has had a chance to respond. Mr. Baker stated we are in Business Session, so he would just advise that the Board conclude their remarks.

04:53:35 Board Members' deliberation

04:54:33 Emily Liu, Director of Planning and Design Services, stated she would just like to point out that this facility has not opened yet, so that's why the determination that they have is twofold; one is that it is a proposed facility and all we can do at this point is what has been proposed there; and then the second part is once it's opened and determined it's not a religious building, then that's enforcement. Ms. Liu stated she just wanted to let the Board know that their decision is solely based on the proposed use because we don't know what exactly is going to happen here, that's why it could have enforcement follow up (see recording for detailed presentation).

04:55:18 Board Members' deliberation

04:56:11 Jon Baker stated there is no formal interpretation written by Planning and Design, so this is technically an appeal on the building permit. Basically Mr. Fenwick is appealing the action that Louisville Metro took on issuing a building permit to the property owner on the basis that the property owner is representing to Louisville Metro that this is a religious building. Mr. Baker stated nothing has really changed as much for the Board's analysis; still whether or not this Board believes in the representations being provided by the property owner that their operations on the property as testified to will constitute a religious building (see recording for detailed presentation).

04:57:19 Board Members' deliberation

05:04:42 On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16APPEAL1006, does hereby **APPROVE** the appeal, **OVERTURNING** the Administrative Official Action that determined the primary use of the structure

BOARD OF ZONING ADJUSTMENT MINUTES
July 11, 2016

PUBLIC HEARING

CASE NUMBER 16APPEAL1006

at 500 East Caldwell Street as a religious building under the Land Development Code, based on the definition in Chapter 1.2.2:

Chapter 1.2.2. Definitions

Religious Building - Any building and the grounds of a building used by an association of persons for religious worship and associated buildings and grounds used for instruction regarding the tradition and tenets of a religious faith or for offices of persons engaged in the faith based activities of the religion or for social and recreational purposes or child care centers, or as a meeting hall. Such buildings and grounds may not also be used for retail sales or other merchandising purposes, except that such buildings and grounds may be used for religious bazaars and suppers. No such building or portion of a building may be used primarily as a commercial theater, except that occasional plays or pageants for which a price of admission is charged may be held. Churches, synagogues, temples and mosques are considered religious buildings for purposes of this Land Development Code.

This decision is further based on the testimony on both sides, and that it does not fulfill a religious group or organization meeting place. Only hypotheticals were heard, and there is no evidence that they're going to be doing religious services daily, there is no evidence of a pastor coming in and working with the people, only serving food one day per week, and that it has not been proven as a religious building because of not being represented by a religious body.

The vote was as follows:

NOTE: Chair Allendorf left at approximately 1:44 p.m., therefore, did not vote on this case.

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

Absent: Chair Allendorf

BOARD OF ZONING ADJUSTMENT MINUTES
June 20, 2016

ADJOURNMENT

The meeting adjourned at approximately 2:35 p.m.

Chair

Secretary