

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

May 1, 2017

A meeting of the Louisville Metro Board of Zoning Adjustment was held on May 1, 2017 at 8:30 a.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

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

Members Absent:

Paul Bergmann

Staff Members Present:

Brian Mabry, Planning & Design Supervisor
Joe Haberman, Planning & Design Manager
Steve Hendrix, Planning Supervisor
Julia Williams, Planning Supervisor
Jon Crumbie, Planning & Design Coordinator
Ross Allen, Planner I
Dante St. Germain, Planner I
John Carroll, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

APRIL 17, 2017 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:02:17 On a motion by Member Fishman, seconded by Member Turner, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on April 17, 2017.

The vote was as follows:

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

Abstain: Chair Allendorf

Absent: Member Bergmann

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BUSINESS SESSION

CASE NUMBER B-17987-12

Request:	Site Inspection Report
Project Name:	B-17987-12, Condition # 2a
Location:	7331 Global Drive
Owner:	Yamamoto FB Engineering
Applicant:	Yamamoto FB Engineering
Representative:	Yamamoto FB Engineering
Jurisdiction:	Louisville Metro
Council District:	12—Rick Blackwell
Case Manager:	Steve Hendrix, Planning and Design Supervisor

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

Agency Testimony:

00:03:07 Steve Hendrix provided an update on this case and responded to questions from the Board Members (see recording for detailed presentation).

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

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PUBLIC HEARING

CASE NUMBER 16CUP1083

Request: CUP for mini-storage with relief from the CUP requirements listed in 4.2.35 B and G, a Variance and Waivers

Project Name: Bardstown Road Storage

Location: 3415 Bardstown Road

Owner: Bardstown Road Centre LLC

Applicant: Erb, Walker, & Twiford

Representative: Mindel Scott and Assoc.; Bardenwerper Talbott and Roberts PLLC.

Jurisdiction: Louisville Metro

Council District: 26- Brent Ackerson

Case Manager: Julia Williams, RLA, AICP, Planning Supervisor

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and 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.

00:06:42 NOTE: Brian Mabry requested this agenda item (#3) be heard after item #4 as the Case Manager was not yet present. Chair Allendorf agreed to recall the case. See page #12 of these minutes for agenda item #4.

Agency Testimony:

00:16:49 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).

00:27:17 NOTE: Due to technical difficulties with the applicant's presentation, Ms. Williams requested this case be recalled after agenda item #5 to allow the applicant an opportunity to access their presentation. Chair Allendorf agreed to recall the case. See page #15 of these minutes for agenda item #5.

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The following spoke in favor of the request:

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

Summary of testimony of those in favor:

01:03:31 Nick Pregliasco spoke in favor of the request and showed a Powerpoint presentation. Mr. Pregliasco responded to questions from the Board Members. Mr. Pregliasco reviewed connectivity issues as discussed during the April 17, 2017 Board of Zoning Adjustment meeting (see recording for detailed presentation).

01:21:30 Julia Williams requested the Board Members be specific with any requests for enhanced landscaping (see recording for detailed presentation).

01:23:07 Nick Pregliasco spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

01:26:57 Board Members' deliberation

01:31:21 Julia Williams clarified placement of the proposed landscaping on the property and responded to questions from the Board Members (see recording for detailed presentation).

01:40:51 Board Members' deliberation

01:41:29 On a motion by Member Howard, seconded by Member Tharp, the following resolution was adopted:

Conditional Use Permit for Mini-Storage with relief from the CUP requirements listed in 4.2.35 B and G:

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal meets the comprehensive plan as the proposal is not for residential and therefore density is not an issue. The proposal does integrate into the pattern of development with the proposal of a multi-story building adjacent to and in the vicinity of other multi-story buildings. A sidewalk is proposed within the ROW of the site and a pedestrian way from the public sidewalk to the existing building is proposed. Vehicle connectivity to adjacent properties is provided. The proposal includes an existing multi-story building and a proposed 3 story building to be used for mini-storage. Existing parking and curb cuts are being used. Buffers are provided between the site and the lower density OR- 2 to the east. No improvements are being made to the area between the site and the adjacent C-2 apartments as it is currently used as parking for the apartments, and

WHEREAS, the Board further finds that the proposed mini-warehouses are at a scale appropriate with the surrounding mixed use area, and will have limited impact on adjacent residential uses due to the existing conditions and proposed buffer. The proposal provides appropriate transitions to adjacent residential zoning through the use of landscape buffer yards, setbacks and screening. Setbacks and building heights are compatible with nearby properties. Therefore, the proposal is compatible with surrounding uses and the general character of the area, and

WHEREAS, the Board further finds that improvements to the site and right-of-way made necessary by the proposed development, such as transportation and drainage, have been adequately provided to serve the proposed use, and

WHEREAS, the Board further finds that the proposal provides appropriate transitions to adjacent residential uses through the use of landscape buffer yards, setbacks and screening. Setbacks and building heights are compatible with nearby properties, and

WHEREAS, the Board further finds that the proposal provides a 25 ft. landscape buffer area and 30' setback where the site is adjacent to residential use along the east property line. All other property lines are an existing condition where existing pavement is right up to the property lines. Several property lines represent shared access (Requirement 4B), and

WHEREAS, the Board further finds that no outdoor storage areas are proposed on the development plan, and

WHEREAS, the Board further finds that no toxic or hazardous materials will be stored on the property, and

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WHEREAS, the Board further finds that no retail or wholesale or distributing activities are proposed on the site, and

WHEREAS, the Board further finds that the applicant is seeking relief of requirement G to build a multi-story structure to have interior mini-storage. The existing structure will mainly have the appearance of an office building where the proposed structure will not have clear windows. There are other multi-story structures in the area, and

WHEREAS, the Board further finds that signage will be attached to the building; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 16CUP1083 does **APPROVE** Conditional Use Permit for Mini-Storage, based upon the Staff Report, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a mini-storage facility without further review and approval by the Board.
3. Proposal is subject to full construction plans being submitted to the Department of Public Works for traffic and MSD for storm water approvals. Once those have been approved, the plan is subject to Inspections, Permits and Licenses for building/parking permits.
4. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
5. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to

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requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

6. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the May 1, 2017 Board of Zoning Adjustment public hearing, also includes landscaping as shown at the May 1, 2017 Board of Zoning Adjustment public hearing.

The vote was as follows:

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

Absent: Member Bergmann

01:44:07 On a motion by Member Howard, seconded by Member Tharp, the following resolution was adopted:

Variance from 5.3.2.C.2.b to eliminate the 25' setback along the north property line where the site is adjacent to a residential use:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect the public health, safety or welfare because the encroachment into the 25' setback is with pavement to allow the apartment building access to parking behind their structure. The site condition is existing and will not change, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity because the site is currently paved in that area to allow for access to the parking for the apartment complex, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the circumstance arises from an existing condition. That condition will allow cross access from several sites in the area through the subject site, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the garage addition is encroaching into only a small portion of the side yard, and

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WHEREAS, the Board further finds that the requested variance does not arise from any special circumstances. The applicant is expanding the site but essentially leaving the existing condition the same, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because it would not allow cross access to be provided and would eliminate parking for the adjacent apartment use, 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, the Louisville Metro Board of Zoning Adjustment in Case Number 16CUP1083 does hereby **APPROVE** Variance from 5.3.2.C.2.b to eliminate the 25' setback along the north property line where the site is adjacent to a residential use, based upon the Staff Report.

The vote was as follows:

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

Absent: Member Bergmann

01:45:12 On a motion by Member Howard, seconded by Member Tharp, the following resolution was adopted:

Waiver from 10.2.10 to eliminate the 10' VUA LBA along Bardstown Road:

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

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

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violate Guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way but since the condition is existing and no building improvements are proposed for the area the Comprehensive Plan is not being violated, 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 there are no proposed improvements to the property along this frontage, 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 encroachment is an existing condition and there are no plans for this area of the site; and

Waiver from 10.2.4.B.3 to allow for over 50% overlap of an easement into a LBA along the east property line:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the planting and screening requirements will still be met on the site, and

WHEREAS, the Board further finds that Guideline 3, Policy 9 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and 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 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. 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

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and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The Comprehensive Plan will not be violated since the planting and screening requirements will still be met on the site, 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 planting and screening requirements will still be met on the site, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since the planting and screening requirements will still be met on the site; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 16CUP1083 does hereby **APPROVE** Waiver from 10.2.10 to eliminate the 10' VUA LBA along Bardstown Road, and Waiver from 10.2.4.B.3 to allow for over 50% overlap of an easement into a LBA along the east property line, based upon the Staff Report.

The vote was as follows:

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

Absent: Member Bergmann

01:46:34 NOTE: Agenda item #7 was heard at this time. See page #21 of these minutes.

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CASE NUMBER 17VARIANCE1018

Request:	Variance from the required 25' street side yard setback
Project Name:	2001 Winston Ave Sun Porch
Location:	2001 Winston Ave
Owner:	J Kent Gregory and Stephanie Gregory
Applicant:	Anne Del Prince – Del Prince Designs LLC
Representative:	Anne Del Prince
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Dante St. Germain, Planner I

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

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

Agency Testimony:

00:07:17 Dante St. Germain presented the case and showed a Powerpoint presentation. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Anne Del Prince, 640 Country Club Road, Louisville, KY 40206

Summary of testimony of those in favor:

00:12:45 Anne Del Prince spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

00:14:30 Board Members' deliberation

00:15:03 On a motion by Vice Chair Jarboe, 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 as there is an existing sun porch in place which has caused no known adverse effects, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposed sun porch is part of a renovation of the property and the existing sun porch has encroached into the street side yard for at least 17 years, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the sun porch will be constructed according to building code so as not to cause a hazard, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed sun porch will take the place of an existing sun porch, which is currently an existing condition on the property, 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 the proposed sun porch will take the place of an existing sun porch, which has existed for at least 17 years, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by preventing the applicant from remodeling the existing sun porch, 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

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from which relief is sought as the applicant is requesting the variance and has not yet constructed the proposed sun porch; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1018, does hereby **APPROVE** Variance from Land Development Code Table 5.3.1 for a structure to encroach into the required street side yard **(Requirement 25 ft., Request 11 ft., Variance 14 ft.)**, based upon the staff report, the site plan and the applicant's justification.

The vote was as follows:

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

Absent: Member Bergmann

00:16:26 NOTE: Chair Allendorf recalled item #3 to be heard at this time (see page #5 of these minutes).

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CASE NUMBER 17VARIANCE1019

Request:	Variance from the required 20% private yard area
Project Name:	1915 Ivanhoe Court Addition and Garage
Location:	1915 Ivanhoe Court
Owner:	Roger & Diana Jolly
Applicant:	Roger & Diana Jolly
Representative:	Roger & Diana Jolly
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Dante St. Germain, Planner I

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

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

Agency Testimony:

00:28:54 Dante St. Germain presented the case and showed a Powerpoint presentation. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Diana Jolly, 1915 Ivanhoe Court, Louisville, KY 40205

Summary of testimony of those in favor:

00:37:15 Diana Jolly spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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00:39:24 Board Members' deliberation

00:40:56 On a motion by Member Fishman, seconded by Vice Chair Jarboe, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the proposed reduced private yard area will not be visible to the right-of-way, and the proposed addition and garage will be constructed to meet building code requirements, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the subdivision was designed with small lots and small yards, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed addition and garage will be constructed according to building code so as not to cause a hazard, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the addition and garage are not proposed to be excessive in size, with the reduced private yard area required due to the small area of the existing lot and location of the existing home set back 22' 7" from the front property line, 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 the existing home is set 22' 7" back from the front property line, and the subdivision was designed with small yard areas in the rear, while other lots in the vicinity are deeper and have larger yards, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by preventing the applicant from replacing a dilapidated single-car garage with a new two-car garage and adding a small addition to the rear of the home, and

WHEREAS, the Board further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not yet constructed the proposed addition and garage; now, therefore be it

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CASE NUMBER 17VARIANCE1019

RESOLVED, the Louisville Metro Board of Zoning Adjustment, in Case Number 17VARIANCE1019, does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.3 to allow a private yard area to be less than 20% of the area of the lot for a lot less than 6,000 square feet (**Requirement 904 sq. ft., Request 480 sq. ft., Variance 424 sq. ft.**), based upon the Staff Report, the discussion and the applicant's justification.

The vote was as follows:

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

Absent: Member Bergmann

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CASE NUMBER 17VARIANCE1020

Request:	Variance from the required 20% private yard area
Project Name:	1004 Camden Ave Addition
Location:	1004 Camden Ave
Owner:	Mitchell Jackson
Applicant:	Jump Start Realty and Development
Representative:	Deondrea Robinson – Jump Start Realty & Dev.
Jurisdiction:	Louisville Metro
Council District:	15 – Marianne Butler
Case Manager:	Dante St. Germain, Planner I

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

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

Agency Testimony:

00:43:29 Dante St. Germain presented the case and showed a Powerpoint presentation. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Deondrea Robinson, 5505 Mock Court, Louisville, KY 40258

Summary of testimony of those in favor:

00:49:12 Deondrea Robinson spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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00:53:11 Board Members' deliberation

00:56:34 Public Hearing was reopened to allow additional testimony from the applicant's representative.

00:56:53 Deondrea Robinson responded to questions from the Board Members regarding drainage issues (see recording for detailed presentation).

00:58:02 Board Members' deliberation

00:58:31 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 variance will not adversely affect the public health, safety or welfare of others because the area where the variance is requested is in the rear of the property and does not put any additional strain on the sewer system or any other services utilized by neighbors, and

WHEREAS, the Board further finds that the variance will not alter the essential character of the general vicinity because it is in the rear of the home. The character of the street view from the front will remain the same. This is a one story addition that will not be visible at front street view, and

WHEREAS, the Board further finds that the variance will not cause a hazard or nuisance to the public because it's use will be solely for living quarters, and

WHEREAS, the Board further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the existing zoning does not require any changes because the use of the property remains the same (residential), and

WHEREAS, the Board further finds that the variance arises from special circumstances which do not generally apply to land in the general vicinity because some of the properties do not have an additional structure in the rear which would prevent the variance issue, and

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

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would create unnecessary hardship because the applicant's family is growing and it is more economical to add to the home than to relocate. The addition would assist the applicant with proper space for the family unit, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought; the ordinance was in place prior to the planning for the addition; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment, in Case Number 17VARIANCE1020, does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.3 to allow a private yard area to be less than 20% of the area of the lot for a lot less than 6,000 square feet, based upon the applicant's justification, and **SUBJECT** to the following Condition of Approval:

Condition of Approval:

1. The applicant must follow MSD requirements for water flow and rain downspout gutter flow to the front of the property.

The vote was as follows:

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

Absent: Member Bergmann

01:02:48 Meeting was recessed.

01:03:01 Meeting was reconvened.

01:03:02 NOTE: At this time Chair Allendorf recalled agenda item #3. See page #5 of these minutes for the continuation of agenda item #3.

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CASE NUMBER 16DEVPLAN1218

Request:	Two variances from LDC Section 5.5.1.A.2 to not build to the corner and two general waivers and a sidewalk waiver.
Project Name:	LMSML Studio Shop
Location:	255 Cabel Street
Owner:	Steven Lund – SML Development
Applicant:	Steven Lund – SML Development
Representative:	Lindsey Stoughton – LMS Design
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Ross Allen, Planner I

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

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

Agency Testimony:

01:47:25 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:

Lindsey Stoughton, 816 Franklin Street, Louisville, KY 40206
Steven Lund, 816 Franklin Street, Louisville, KY 40206

Summary of testimony of those in favor:

01:56:30 Lindsey Stoughton spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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02:00:33 Ross Allen responded to questions from the Board Members (see recording for detailed presentation).

02:01:22 Steven Lund spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:03:34 Board Members' deliberation

02:08:52 Herman Marshall (375 Adams Street, Louisville, KY 40206), adjacent property owner, spoke in regard to the sidewalk on Adams Street and where it ends. Mr. Marshall responded to questions from the Board Members (see recording for detailed presentation).

02:10:57 Steven Lund explained where the entrance to his property will be located (see recording for detailed presentation).

02:12:07 Ross Allen responded to questions from the Board Members (see recording for detailed presentation).

02:16:23 On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution was adopted:

Variance from LDC Section 5.5.1.A.2 to allow the building to be constructed more than 5 ft. away from the right-of-way line along Adams Street:

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 placement of the building further back than the required five foot setback allows more visibility for vehicles travelling along Cabel Street towards Adams Street, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since other buildings in the area and across the street (west) are not built to the standard for a corner, being a five foot setback from each public right of way along each street for a corner lot. Many properties in the area are vacant or parcels that have buildings have larger setbacks from the public right of way than the requirements allow, and

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WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the additional space allows for more green space along the roadway, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulation since the proposal, as shown on the site plan, is built to the standards for an M-3 zoned parcel within a Traditional Neighborhood Form District (minimum and maximum setbacks). The site plan shows that the situation of the building on the parcel stays with the intent of building to the corner along both streets, 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 since the topography of the site, especially at the corner of Adams and Cabel Street, has significant change in elevation. The street is approximately 15 ft. below the grade as found interior to the property. The elevation at street level is approximately 446 feet and increases to approximately 461 feet in a distance of 15 feet (interior to the site), this is found along both Cabel Street and Adams Street, 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 topography would require a greater expense to the applicant if required to build to the five foot setback and the height elevation as required by MSD. Additionally, to meet the LDC requirements would result in the removal of large well established trees and it is the intent of the applicant to preserve as many trees and green space as possible, and

WHEREAS, the Board further finds that the design, placement, and orientation of the building was based primarily on the site and surrounding neighborhood; and

Variance from LDC Section 5.5.1.A.2 to allow the building to be constructed more than 5 ft. away from the right-of-way line along Cabel Street:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare because the greater setback allows better visibility for vehicles approaching Cabel Street from Adams Street, and

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WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since other buildings in the area and across the street (west) are not built to the standard for a corner, being a five foot setback from each public right of way along each street for a corner lot. Many properties in the area are vacant or parcels that have buildings that have larger setbacks from the public right of way than the requirements allow, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the additional space allows for more green space along the roadway, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulation since the proposal, as shown on the site plan, is built to the standards for an M-3 zoned parcel within a Traditional Neighborhood Form District (minimum and maximum setbacks). The site plan shows that the situation of the building on the parcel stays with the intent of building to the corner along both streets, 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 since the topography of the site, especially at the corner of Adams and Cabel Street, has significant change in elevation. The street is approximately 15 ft. below the grade as found interior to the property. The elevation at street level is approximately 446 feet and increases to approximately 461 feet in a distance of 15 feet (interior to the site), this is found along both Cabel Street and Adams Street, 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 topography would require a greater expense to the applicant if required to build to the five foot setback and the height elevation as required by MSD. Additionally, to meet the LDC requirements would result in the removal of large well established trees and it is the intent of the applicant to preserve as many trees and green space as possible, and

WHEREAS, the Board further finds that the design, placement, and orientation of the building were based primarily on the site and surrounding neighborhood; and

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Waiver from LDC Section 5.5.1.A.1.a to not provide the principal building entrance facing Adams or Cabel Street nor having an entrance located at the corner:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since many surrounding properties do not have building entrances that face the street frontages. The area of town is subject to dumping, homeless people squatting, and minor theft therefore a perimeter fence is preferred by most property owners, and

WHEREAS, the Board further finds that Guideline 3, Policy 1 requires 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 waiver will not violate the comprehensive plan since directly across Adams Street is the Interstate and the need for an entrance off Adams Street or Cabel Street would be inappropriate. The elevation change (approx. greater than 10 feet) from street level would require an extensive amount of hardscape and loss of established trees. Reducing the amount of sidewalk and hardscape (not building the pedestrian access) is more in keeping with the focus on natural areas and environment, and

WHEREAS, the Board further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since the topography of the site from street level is steep and being within a flood zone, MSD is requiring the building to be at a higher elevation than adjacent roads and sidewalks. The building is approximately 12 feet above the road and a pedestrian access would require a ramp length of 1,728 ft. or 21 steps up to the building entrance. The cost for this pedestrian access is grossly out of budget and is not a design component desired by the property owner; there is no on-street parking, the interstate is directly across the street, and common theft problems all being factors in not providing the access from either frontage to the building entrance, and

WHEREAS, the Board further finds that a building entrance on the corner or the frontage streets would require a pedestrian access that will create an unnecessary hardship on the client and deny reasonable use of the land. The severity of the topography from the road/sidewalk elevation up to the site elevation makes the construction of a pedestrian access extremely difficult and expensive. The overall design plan will incorporate an extensive planting/landscaping scheme to improve the green space along the frontage streets; and

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Waiver from LDC Section 5.8.1.B to not provide a sidewalk along Cabel Street for an approximate length of 178 feet:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that The waiver will not adversely affect adjacent property owners since the site is located in an underdeveloped part of Louisville. The application/requirement of sidewalks and street entrances that are in the Traditional Neighborhood form district are not common in this area. The subject site is vacant parcel zoned M-3, an I-64 ramp is to the north and adjacent land uses include a junkyard and truck loading facility. Across Cabel Street is a large warehouse and no sidewalks are not on either the western or eastern sides of the street. The applicant has a frontage along Cabel Street for an approximate length of 178 feet and the sidewalk if added would dead end, and

WHEREAS, the Board further finds that Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. The Land Development Code intends to create a defining character/conformity to the different neighborhoods and make logical use of built vs. open space in regards to the environment, vehicular, and pedestrian circulation. Adding a small, dead end, section of sidewalk along Cabel Street where no other sidewalks exist and street parking is not provided will result in the nonfunctional use of land. The land would be put to better use as a green space with street landscaping, and

WHEREAS, the Board further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since adjacent property owners on Cabel Street do not have sidewalks. The small section of property facing Cabel Street would be an odd, small, dead end section of sidewalk. At most, the removal of trees along the street frontage (required to install sidewalk) would have a negative impact on adjacent property owners. The trees help shield the properties from the view and sound of the interstate. This waiver will not affect the adjacent property owner's along Adams Street, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since the topography and elevation changes on the site, as well as large well established trees along the street will cause this to be a difficult and very expensive sidewalk to construct.

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The construction would require extensive amounts of soil to be moved (potentially killing all of the trees along the street and many of the large established trees would need to be removed). It is the applicant's desire to preserve as many large trees and as much green space as possible especially since the interstate is directly across the street. The financial hardship of this component would more than likely put the project on hold and ultimately cause the owner to reconsider the entire project; and

Waiver from LDC Section 5.9.2.A.1.b.i to not provide a pedestrian access from the public right-of-way through the off-street parking area to the building entrance:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners because none of the adjacent property owners have a pedestrian access from neither Adams Street nor Cabel Street up to the building entrance and most properties are fenced. This area of town is subject to illegal dumping, homeless people squatting, and minor theft therefore a perimeter fence and no pedestrian access from the public right of way is preferred by most property owners, and

WHEREAS, the Board further finds that the waiver will not violate specific guidelines of Cornerstone 2020. Reducing the amount of hardscape and preserving existing trees (not building the pedestrian access) is more in keeping with the Comprehensive Plan's focus on natural areas and environment by reducing site water runoff and reducing the urban heat island effect, 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 because the site topography is challenging and in a flood zone, MSD is requiring the applicant to build at a higher elevation, not at the elevation of the road and sidewalks. The pedestrian access would require a ramp length of 1,728 ft. or 21 steps. The cost for this feature is grossly out of budget and is not a design component desired by the property owner (since there is no on street parking and common theft problems in this area of town). The extensive cost of this pedestrian access would likely cause the owner to cancel the project in its totality, 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 because the pedestrian access will create unnecessary hardship on the applicant. The severity of the elevation change from sidewalk/street elevation up to the subject site makes

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construction of a pedestrian access extremely difficult and expensive resulting in the removal of large established trees. The overall design will incorporate an extensive planting/landscape scheme to improve the green space in this area; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment, in Case Number 16DEVPLAN1218, does hereby **APPROVE** Variance from LDC Section 5.5.1.A.2 to allow the building to be constructed more than 5 ft. away from the right-of-way line along Adams Street, Variance from LDC Section 5.5.1.A.2 to allow the building to be constructed more than 5 ft. away from the right-of-way line along Cabel Street, Waiver from LDC Section 5.5.1.A.1.a to not provide the principal building entrance facing Adams or Cabel Street nor having an entrance located at the corner, Waiver from LDC Section 5.8.1.B to not provide a sidewalk along Cabel Street for an approximate length of 178 feet, and Waiver from LDC Section 5.9.2.A.1.b.i to not provide a pedestrian access from the public right-of-way through the off-street parking area to the building entrance, based upon the Staff Report, testimony and the site plans, and **SUBJECT** to the following Condition of Approval:

Condition of Approval:

1. A Deed of Consolidation for the two parcels shall be recorded and provided to Planning & Design Services Staff prior to construction approval.

The vote was as follows:

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

Abstain: Member Tharp

Absent: Member Bergmann

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Request: Variance to allow parking/drive lane in the 25 foot front and rear setbacks and landscape waiver to decrease the required LBA along the front property from 10 foot to 4 foot.

Project Name: FMC Pleasure Ridge Park

Location: 1715 Gagel Avenue

Owner: Don B. Kupper - KUPCO, LLC.

Applicant: Brett May – AGE Engineering Services Inc.

Representative: Brett May – AGE Engineering Services Inc.

Jurisdiction: Shively

Council District: 3 – Mary C. Woolridge

Case Manager: Ross Allen, Planner I

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

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

Agency Testimony:

02:21:16 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:

Douglas Gooch, 165 Foster Lane, Stanford, KY 40484

Summary of testimony of those in favor:

02:30:29 Douglas Gooch spoke on behalf of the applicant in favor of the request. Mr. Gooch presented handouts to the Board Members. Mr. Gooch responded to questions from the Board Members (see recording for detailed presentation).

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02:40:47 Ross Allen explained the proposed landscaping and responded to questions from the Board Members (see recording for detailed presentation).

02:42:32 Mr. Gooch responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

02:45:40 Board Members' deliberation

02:48:01 Mr. Gooch responded to questions from the Board Members regarding the proposed building materials (see recording for detailed presentation).

02:49:39 On a motion by Member Fishman, seconded by Member Tharp, the following resolution was adopted:

Variance from Land Development Code (Shively LDC 2006) Section 5.3.2.C.2 to allow parking and maneuvering area in the 25 foot front setback for approximately 150 feet in length along Gagel Avenue:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare because the area of the variance request in the front of the lot will be used for passenger car parking of dialysis patients. The front parking lot does not cover the entire lot and there will be green space between the front of the parking lot and the sidewalk. The land use directly across the street is a large multi car parking lot for a multi-family housing complex. There will remain on the east side of the lot a large green area that will be used as a detention basin. This basin will be large and shallow and will provide a significant front yard area, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity because the front of the lot will have a large green area used as a very shallow detention basin at the east end of the lot. This is the end that abuts the residential development. Across the street from the front yard is a large parking lot for a multifamily complex. There will be a green area between the front parking lot and the sidewalk. In the rear the

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property adjoins a lot used as a detention basin so there is little activity in the area. There will be a green buffer between the two properties and a natural screening hedge can be planted to further buffer the residential area, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the intended use for this property is a dialysis clinic. The number of vehicles entering and leaving the property each day is minor. Cars parked on the front parking lot will not hinder visibility along Gagel Avenue, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the intent of the transitional yard is to transition into a residential setting. The goals of the regulations are to prevent a concrete jungle and heavy traffic flow next to someone's yard where their kids may be playing. In this situation the site design is such that a large very shallow detention basin exists on the east end of the lot. This is the end of the lot that abuts the residential zone. The detention basin along with a natural drain (wet weather stream) creates an ideal buffer. This particular site does have considerable green space, and the applicant has not created an unusually high number of parking spaces, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone because when this lot was created, access from Gagel Avenue was limited to a single access point that has to be shared with the adjoining lot to the west. This restriction required the driving lane around the building be large enough for the Mobile Treatment Vehicles, Emergency Water Treatment Vehicle, and the occasional Medical Supply delivery vehicle to circumnavigate the building. These vehicles are necessary for the lifesaving dialysis treatment. Since all of these vehicles are tractor and trailer setups an extended driving lane in the front and rear of the property is necessary. With this extended driving lane, parking must be placed in the front transitional yard. And the turning radii require the rear drive to encompass the building wide enough to encroach upon the rear transitional yard, 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 because without the Emergency Water Filtration Truck the clinic could not operate in times of power outages. The clinics patients cannot wait for the power to come back on. They have to have the treatment on schedule. A strict application of the transitional yard would make this lot unusable for the dialysis clinic, 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 because the regulation was adopted prior to the purchase of this site. However, this site design meets the setback requirements of the Suburban Marketplace Corridor form district barring the transitional zone classification; and

Variance from Land Development Code (Shively LDC 2006) Section 5.3.2.C.2 to allow a drive lane in the 25 foot rear setback for approximately 133 feet in length along the rear property line:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare because the area impacted by the variance requested in the rear of the lot will be used to park a mobile dialysis system on occasion. This area will also be used to park a mobile water filtration system should the electricity ever be off for an extended period. Since this area will be used as temporary parking and an occasional unload area for medical supplies there will not be a major impact to the neighbors in the rear. The adjoining land use immediately to the rear is a detention basin and does not have a lot of human activity in the area, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity because the rear the property adjoins a lot used as a detention basin so there is little human activity in the area. There will be a green buffer between the two properties and a natural screening hedge can be planted to further buffer the residential area, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the limited times a truck will be parked on the rear paved area will be 2 or 3 times a week. This limited use should not prevent the area of the rear variance from creating any nuisance for the adjoining. The low traffic volume for the last commercial activity on the street is another way to transition down to a quieter area, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because in this situation the site design is such that a large very shallow detention basin exists on the east end of the lot. This is the end of the lot that abuts the residential zone. The detention basin along with a natural drain (wet weather stream) creates an ideal buffer. This particular site will have considerable green space along the rear property line, and

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WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone because when this lot was created, access from Gagel Avenue was limited to a single access point that has to be shared with the adjoining lot to the west. This restriction required the driving lane around the building be large enough for the Mobile Treatment Vehicles, Emergency Water Treatment Vehicle, and the occasional Medical Supply delivery vehicle to circumnavigate the building. These vehicles are necessary for the lifesaving dialysis treatment. Since all of these vehicles are tractor and trailer setups an extended driving lane in the front and rear of the property is necessary. With this extended driving lane, parking must be placed in the front transitional yard. And the turning radii require the rear drive to "circle" the building wide enough to encroach upon the rear transitional yard, 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 because without the Emergency Water Filtration Truck the clinic could not operate in times of power outages. The clinics patients cannot wait for the power to come back on. They have to have the treatment on schedule. A strict application of the transitional yard would make this lot unusable for the dialysis clinic, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought because the regulation was adopted prior to the purchase of this site. However, this site design meets the setback requirements of the Suburban Marketplace Corridor form district barring the transitional zone classification; and

Waiver from Land Development Code (Shively LDC 2006) Section 10.2.9 to decrease the width of the 10 foot VUA Landscape Buffer Area to 4 feet in width along the Gagel Ave. frontage for approximately 91 feet:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the waiver is only required on the center 91 feet of the lot. Along this 91 foot section the applicant is requesting to reduce the required buffer from 10 feet to 4 feet. The applicant will still be able to place a screening buffer of shrubs to hide the parking lot from street view. On either end of the lot the applicant can plant larger trees so that the adjoining properties will not have unattractive views when looking up or down the street, and

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WHEREAS, the Board further finds that the applicant has 4 feet of space to be able to plant a screening buffer to hide the parking lot. There is more than adequate space at each end of the lot for canopy trees to be planted. The intent is to keep the transition zone greener and more attractive just before entering the residential zones and can be accomplished by planting trees in the large undeveloped area on the northeast end of the property. The waiver will not violate Guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. The 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 reducing the width of the VUA LBA along Gagel Ave. and is willing to provide the required plantings for screening, and

WHEREAS, the Board further finds that the extent of the waiver of the regulations is the minimum necessary to afford relief to the applicant since the reduction of the VUA LBA from 10 feet to 4 feet in width for the 91 feet in length along Gagel Ave. will allow a large enough driving lane around the building to allow for medical Mobile Treatment Vehicles and emergency Water Purification Vehicles (should the power be off for extended periods) access to the rear of the building, 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 applicant is willing to provide the required landscaping and plan meets the intent and requirements of the comprehensive plan without using the required 10 feet width with a reduction to 4 feet in width for approximately 91 feet in length. The applicant will be able to provide the VUA LBA in the 4 foot width and comply with applicable guidelines; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17DEVPLAN1031 does hereby **APPROVE** Variance from Land Development Code (Shively LDC 2006) Section 5.3.2.C.2 to allow parking and maneuvering area in the 25 foot front setback for approximately 150 feet in length along Gagel Ave. (**Requirement 25 ft., Request 4 ft., Variance 21 ft.**), Variance from Land Development Code (Shively LDC 2006) Section 5.3.2.C.2 to allow a drive lane in the 25 foot rear setback for approximately 133 feet in length along the rear property line (**Requirement 25 ft., Request 14 ft., Variance 11 ft.**), and Waiver from Land Development Code (Shively LDC 2006) Section 10.2.9 to decrease

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the width of the 10 foot VUA Landscape Buffer Area to 4 feet in width along the Gagel Ave. frontage for approximately 91 feet, based upon the discussion, the Staff Report and the presentation.

The vote was as follows:

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

Absent: Member Bergmann

02:51:47 Meeting was recessed.

02:52:03 Meeting was reconvened.

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CASE NUMBER 16CUP1038

Request:	Conditional Use Permit to allow a proposed short term rental that is not the primary residence of the host in R-5 zoning district
Project Name:	Short Term Rental
Location:	1938 Bonnycastle Avenue
Owner:	1938 Bonnycastle Avenue
Applicant:	Andrew Noland
Representative:	Andrew Noland
Jurisdiction:	Louisville Metro
Council District:	8– Brandon Coan
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:

02:52:18 Jon Crumbie presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Chris Bailey, Goldberg Simpson, 9301 Dayflower Street, Louisville, KY 40059

Summary of testimony of those in favor:

02:55:47 Chris Bailey spoke on behalf of the applicant in favor of the request. Mr. Bailey responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

02:58:43 Board Members' deliberation

03:00:25 Joe Haberman responded to comments by the Board Members regarding interior photographs of the property, response time of the host and availability of telephone information for the host (see recording for detailed presentation).

03:07:05 Mr. Bailey stated that the owner lives ten miles away (see recording for detailed presentation).

03:07:26 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 proposal is consistent with the applicable policies of the Comprehensive Plan, and

WHEREAS, the Board further finds that the underlying use of the property shall remain the same (single family dwelling). The proposal only involves allowing short term rentals within the existing dwelling unit. No additional development is proposed. As such, the proposal is compatible with the surrounding land uses with respect to height, bulk, scale, intensity, traffic, noise, odor, drainage, lighting and appearance, and

WHEREAS, the Board further finds that the underlying use of the property shall remain the same (single family dwelling). The proposal only involves allowing short term rentals within the existing dwelling unit. No additional development is proposed. MSD and Transportation Planning have approved the proposal, and

WHEREAS, the Board further finds that:

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

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- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **The dwelling unit has 2 bedrooms which will allow a maximum of 8 occupants.**
- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted.
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **The property has parking on the street and at the rear of the property.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 16CUP1038 does hereby **APPROVE** Conditional Use Permit to allow short term rental in an R-5 zoning district that is not the primary residence of the host, based upon the Staff Report, the applicant's letter of justification, and **SUBJECT** to the following Condition of Approval:

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CASE NUMBER 16CUP1038

Condition of Approval:

1. Prior to commencement of any short term rental on the subject property, the short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances, including the requirements to register annually with Develop Louisville and to register with the Louisville Metro Revenue Commission.

The vote was as follows:

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

Absent: Member Bergmann

BOARD OF ZONING ADJUSTMENT MINUTES
May 1, 2017

PUBLIC HEARING

CASE NUMBER 17CUP1011

Request:	Conditional Use Permit to allow short term rental of a dwelling unit in an R-1 zoning district not the primary residence of the host
Project Name:	Short Term Rental
Location:	8204 Wolf Pen Branch Road
Owner:	Vivian Lee Gabbard
Applicant:	Vivian Lee Gabbard
Representative:	Vivian Lee Gabbard
Jurisdiction:	Louisville Metro
Council District:	16 – Scott Reed
Case Manager:	Beth Jones, AICP, Planner II

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

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

Agency Testimony:

03:09:45 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Vivian Lee Gabbard, 8206 Wolf Pen Branch Road, Prospect, KY 40059
Walter Taylor, 8206 Wolf Pen Branch Road, Prospect, KY 40059

Summary of testimony of those in favor:

03:14:17 Vivian Lee Gabbard spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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03:16:56 Walter Taylor spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

03:18:46 Board Members' deliberation

03:19:03 On a motion by Vice Chair Jarboe, seconded by Member Tharp, the following resolution was adopted:

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

WHEREAS, the Board further finds that the existing site is compatible with surrounding uses. The proposal does not include any new construction or modification of either existing structure, and

WHEREAS, the Board further finds that the site does not currently have an MSD sewer connection. Health Department approval will not be required as there is no proposed addition of bedrooms or bathrooms on the site, and

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.

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- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **The principal structure is permitted for up to 10 people. The accessory structure is permitted for up to 6 people.**
- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted. **Both the principal structure and the accessory structure are single-family dwelling units.**
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **Sufficient parking is available on site. Due to the site's location on a private street, public street parking is not available nearby and not anticipated to be necessary.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1011 does hereby **APPROVE** Conditional Use Permit to allow short term rental in a dwelling unit that is not the primary residence of the host in an R-1 Residential Single-Family zoning district, based upon the Staff Report, the applicant's testimony, and **SUBJECT** to the following Condition of Approval:

Condition of Approval:

1. Prior to commencement of any short term rental on the subject property, the short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances, including the requirements to register

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annually with Develop Louisville and to register with the Louisville Metro Revenue Commission.

The vote was as follows:

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

Absent: Member Bergmann

BOARD OF ZONING ADJUSTMENT MINUTES
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ADJOURNMENT

The meeting adjourned at approximately 12:04 p.m.

Chair

Secretary