

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

**September 11, 2017**

A meeting of the Louisville Metro Board of Zoning Adjustment was held on September 11, 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  
Lula Howard  
Lester Turner  
Dwight Young

**Staff Members Present:**

Brian Davis, Planning & Design Manager (left at approximately 8:42 a.m.)  
Joe Haberman, Planning & Design Manager  
Steve Hendrix, Planning & Design Supervisor  
Brian Mabry, Planning & Design Supervisor  
Jon Crumbie, Planning & Design Coordinator  
Jay Lockett, Planner I  
Beth Jones, Planner II  
Ross Allen, Planner I  
Dante St. Germain, Planner I  
Joel Dock, Planner II  
John Carroll, Legal Counsel  
Sue Reid, Management Assistant

The following cases were heard:

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**September 11, 2017**

**APPROVAL OF MINUTES**

**August 21, 2017 BOARD OF ZONING ADJUSTMENT MEETING MINUTES**

**00:06:57** On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on August 21, 2017.

**The vote was as follows:**

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

**Abstain: Member Young, and Vice Chair Jarboe**

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**September 11, 2017**

**BUSINESS SESSION**

**CASE NUMBER 17MISC1060**

Request:	Future BOZA Meeting Dates
Project Name:	Future BOZA Meeting Dates
Jurisdiction:	Louisville Metro
Case Manager:	Brian Mabry, AICP, Planning & 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:**

**00:07:52** Brian Mabry stated with this being the only meeting in September the backlog for the October BOZA meetings is building up. Therefore, Mr. Mabry reminded the Board Members they had approved a third October meeting on this year's calendar, and he was seeking confirmation that October 30<sup>th</sup> is a meeting date the Board Members could attend (see recording for detailed presentation).

**00:09:34** On a motion by Member Howard, seconded by Member Turner, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment does hereby **CONFIRM** October 30, 2017 as a third meeting date for the month of October.

**The vote was as follows:**

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

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**September 11, 2017**

**BUSINESS SESSION**

**CASE NUMBER B-17987-12**

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

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 5<sup>th</sup> 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:**

**00:10:38** Steve Hendrix provided an update on the case and suggested scheduling this case for a Public Hearing to finalize the termination of Condition 2a , which is to have overhead doors open only when necessary between the hours of 7:00 p.m. and 7:00 a.m. (see recording for detailed presentation).

**00:13:20** On a motion by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number B-17987-12 to the **October 16, 2017** Board of Zoning Adjustment meeting for the purpose of reviewing the compliance with Condition 2a.

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**BUSINESS SESSION**

**CASE NUMBER B-17987-12**

**The vote was as follows:**

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

**BOARD OF ZONING ADJUSTMENT MINUTES**  
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**PUBLIC HEARING**

**CASE NUMBER 17DEVPLAN1088**

Request:	Cat-3 Development plan with Variance for infill setback standards and Waiver for LBA
Project Name:	110 Weisser Ave
Location:	110 Weisser Ave
Owner:	Tony Holland
Applicant:	Prime Design Build
Representative:	Ann Richard – LD&D
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Jay Lockett, 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 5<sup>th</sup> 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:**

**00:15:02** Jay Lockett presented the case and showed a Powerpoint presentation. Mr. Lockett responded to questions from the Board Members (see staff report and recording for detailed presentation).

**The following spoke in favor of the request:**

Kevin Young, 503 Washburn, Louisville, KY 40222  
Graham Smith, 124 S. Bayly Ave., Louisville, KY 40206  
Tony Holland, 814 Gilliland Rd., Louisville, KY 40245

**Summary of testimony of those in favor:**

**00:21:30** Kevin Young spoke in favor of the request and showed a Powerpoint presentation. Mr. Young responded to questions from the Board Members (see recording for detailed presentation).

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**CASE NUMBER 17DEVPLAN1088**

**NOTE:** Graham Smith and Tony Holland were sworn in to speak in favor of the request. However, neither of them spoke.

**The following spoke in opposition of the request:**

Theresa McDonnell, 128 Weisser Ave., Louisville, KY 40206

**Summary of testimony of those in opposition:**

**00:29:45** Theresa McDonnell spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

**REBUTTAL:**

**00:42:40** Kevin Young spoke in rebuttal. Mr. Young provided the Board Members with various elevations that were discussed with the neighbors. Mr. Young responded to questions from the Board Members (see recording for detailed presentation).

**00:49:05 Board Members' deliberation**

**00:59:30** A motion was made by Vice Chair Jarboe, seconded by Member Howard, that Case Number 17DEVPLAN1088, **Variance** from Land Development Code Section 5.1.12.A.2.a to reduce the infill front setback requirement from 25 feet to 5 feet be **DENIED**. The motion **FAILED** by the following vote:

**Yes: Members Turner, Howard, and Vice Chair Jarboe**

**No: Members Fishman, Young, and Chair Allendorf**

**01:02:17** On a motion by Member Howard, seconded by Vice Chair Jarboe, the following resolution was adopted:

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**PUBLIC HEARING**

**CASE NUMBER 17DEVPLAN1088**

**Waiver from Land Development Code Section 10.2.4 to reduce the perimeter Landscape Buffer Area (LBA) from 15 feet to 10 feet along the south and west property lines:**

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since required screening will still be provided through plantings and a privacy fence, and

**WHEREAS**, the Board further finds that Guideline 3, Policy 9 of Cornerstone 2020 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 mitigation of 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 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 airborne and waterborne pollutants. Required plantings will still be provided in the reduced buffer area, 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 10 foot buffer will still allow for the required plating and screening to take place on 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, as orienting the building according to all required buffers and setbacks on the site would make it difficult to provide required parking within the regulations of the form district, and



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**CASE NUMBER 17DEVPLAN1088**

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

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 17DEVPLAN1088 does hereby **APPROVE** Waiver from Land Development Code Section 10.2.4 to reduce the perimeter Landscape Buffer Area (LBA) from 15 feet to 10 feet along the south and west property lines, based upon the applicant's justification and the Staff Report.

**The vote was as follows:**

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

**01:03:30      Board Members' deliberation**

**01:14:23**      A motion was made by Member Fishman, seconded by Member Young, that Case Number 17DEVPLAN1088, **Variance** from Land Development Code Section 5.1.12.A.2.a to reduce the infill front setback requirement from 25 feet to 5 feet, be **APPROVED**. The motion **FAILED** by the following vote:

**Yes: Members Fishman, Young, and Chair Allendorf**  
**No: Members Turner, Howard, and Vice Chair Jarboe**

**01:15:46      Board Members' deliberation**

**01:19:56      NOTE:** Public Hearing was reopened to allow a comment from the applicant's representative. Kevin Young stated the applicant is willing to reduce their request from 5 feet to 10 feet for a Variance of 15 feet (see recording for detailed presentation).

**01:20:35      Board Members' deliberation**

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**CASE NUMBER 17DEVPLAN1088**

**01:25:34**     **NOTE:** Public Hearing was reopened to allow the applicant an opportunity to clarify their position, and to allow additional comments from those in opposition.

**01:25:47**     Kevin Young stated the applicant is offering to modify their request from 5 feet to 10 feet for a Variance of 15 feet which would provide 5 feet of additional landscaping adjacent to Weisser Avenue (see recording for detailed presentation).

**01:26:34**     Theresa McDonnell stated there was no neighbor input that was accepted. Ms. McDonnell stated it would not suffice, but it would be much better to have 10 feet than 5 feet. Ms. McDonnell stated she would not be as opposed (see recording for detailed presentation).

**REBUTTAL:**

**01:30:07**     Kevin Young spoke in rebuttal (see recording for detailed presentation).

**01:30:22**     **Board Members' deliberation**

**01:31:40**     On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

**VARIANCE from Land Development Code Section 5.1.12.A.2.a to reduce the infill front setback requirement from 25 feet to 10 feet (as Modified at the September 11, 2017 BOZA meeting):**

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect the public health, safety or welfare because the building will be adequately screened from surrounding properties, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity because the multifamily development will serve as an appropriate transition use between the single family neighborhood and the more intense commercial uses along Frankfort Ave, and

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**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the proposed multifamily development is at an appropriate scale and density for infill in the area, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the variance will allow for a lower profile 2-story structure that is more compatible with the area, and

**WHEREAS**, the Board further finds that the requested variance does not arise from any special circumstances, 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 if the setback was observed, it would be difficult to fit the required parking onto the site in accordance with the form district requirements, 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, and

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

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 17DEVPLAN1088 does hereby **APPROVE** Variance from Land Development Code Section 5.1.12.A.2.a to reduce the infill front setback requirement from 25 feet to 10 feet (**Requirement 25 feet, Request 10 feet, Variance 15 feet**) to include additional landscaping within the extra 5 feet (**as MODIFIED at today's Public Hearing**), based upon the presentation, the discussion, the applicant's testimony and justification statement and the Staff Report.

**The vote was as follows:**

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

**01:33:43** On a motion by Member Howard, seconded by Vice Chair Jarboe, the following resolution was adopted:

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**PUBLIC HEARING**

**CASE NUMBER 17DEVPLAN1088**

**Category 3 Development Plan for a 15 unit Multifamily apartment building on .432 acres in the C-1 Zoning District:**

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 17DEVPLAN1088 does hereby **APPROVE** Category 3 Development Plan for a 15 unit Multifamily apartment building on .432 acres in the C-1 Zoning District (noting a modification during today's Public Hearing to the Variance Request for the infill front setback from 5 feet to 10 feet which will include additional landscaping, for which the applicant will submit a new site plan to staff), based upon the Staff Report and the applicant's justification.

**The vote was as follows:**

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

**01:36:14      Meeting was recessed.**

**01:36:29      Meeting was reconvened.**

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**CASE NUMBER 17DEVPLAN1149**

Request:	Variance for building separation
Project Name:	Central Station
Location:	3151 South Second Street
Owner:	Central Station LLC
Applicant:	Phillips Edison & Company
Representative:	Phillips Edison & Company
Jurisdiction:	Louisville Metro
Council District:	15 – Marianne Butler
Case Manager:	Steve Hendrix, Planning Supervisor

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

**01:36:47** 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 favor of the request:**

Quinn Gadow, 8911 Harper Point Drive, Cincinnati, OH 45249

**Summary of testimony of those in favor:**

**01:40:24** Quinn Gadow spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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**CASE NUMBER 17DEVPLAN1149**

**The following spoke in opposition of the request:**

No one spoke.

**01:44:32      Board Members' deliberation**

**01:45:32**      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, but allows for the required space for fire department vehicular maneuvering, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity, since the development is within the existing Central Station retail center, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public, but allows for the fire safety requirements to be met, and

**WHEREAS**, the Board further finds that the requested variance is not an unreasonable circumvention of the zoning regulations, since it allows for the fire safety requirements to be met, 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 due to the size, shape and location of existing buildings within the shopping center, and

**WHEREAS**, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring further reduction in the size of the proposed building, 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, but are a result of this particular site and the existing location of other buildings; now, therefore be it

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**CASE NUMBER 17DEVPLAN1149**

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 17DEVPLAN1149 does hereby **APPROVE** Variance from Land Development Code Section 5.3.4.D.4.b.iii to allow a reduction in the amount of building separation **(Requirement 10 feet, Request 5 feet, Variance 5 feet)**, based upon the presentation, the Staff Report, the applicant's presentation, and the site plan.

**The vote was as follows:**

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

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**PUBLIC HEARING**

**CASE NUMBER 17VARIANCE1038**

Request:	Variances to allow a private yard area to be less than 30% of the lot and to allow an accessory structure/use area to exceed 60 feet in depth
Project Name:	183 N Bellaire Avenue Garage
Location:	183 N Bellaire Avenue
Owner:	Rachel Weiss & Rodney Bell
Applicant:	Christopher Eldridge
Representative:	Christopher Eldridge
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
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 5<sup>th</sup> 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:**

**01:47:46** 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:**

Chris Eldridge, 1437 Story Avenue, Louisville, KY

**Summary of testimony of those in favor:**

**01:55:02** Chris Eldridge spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).



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**CASE NUMBER 17VARIANCE1038**

**The following spoke in opposition of the request:**

No one spoke.

**01:58:02      Board Members' deliberation**

**01:59:07**      On a motion by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

**Variance from Land Development Code Section 5.4.1.D.2 to allow a private yard area to be less than 30% of the area of the lot:**

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as considerable green space will be preserved behind the garage, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the design and location of the garage have been approved by the Clifton Architectural Review Committee, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the location of the garage is proposed to be forward of the rear yard to preserve a mature tree, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the garage is proposed to be located forward of the rear yard in order to preserve an existing mature tree, 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 rear yard is occupied by an existing mature tree, and placing the garage to the rear of the lot would require the removal of this tree, and

**WHEREAS**, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the applicant to remove an existing mature tree, 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 as the tree is existing and has matured in place over many years, and

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

**Variance from Land Development Code Section 5.4.1.E.1 to allow an accessory structure/use area to exceed 60 feet in depth:**

**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 will still be considerable green space to the side and the rear of the proposed garage, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the design and location of the garage have been approved by the Clifton Architectural Review Committee, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the location of the garage is proposed to be forward of the rear yard to preserve a mature tree, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the garage is proposed to be located forward of the rear yard in order to preserve an existing mature tree, 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 rear yard is occupied by an existing mature tree, and placing the garage to the rear of the lot would require the removal of this tree, and

**WHEREAS**, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the applicant to remove an existing mature tree, and

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

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**CASE NUMBER 17VARIANCE1038**

from which relief is sought as the tree is existing and has matured in place over many years, and

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

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1038 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.2 to allow a private yard area to be less than 30% of the area of the lot (**Requirement 30% [2,400 sf], Request 8.8% [702 sf], Variance 21.2% [1,698 sf]**), and Variance from Land Development Code Section 5.4.1.E.1 to allow an accessory structure/use area to exceed 60 feet in depth (**Requirement 60 ft., Request 101.42 ft., Variance 41.42 ft.**), based upon the Staff Report, the applicant's justification statement, the site plan, and **SUBJECT** to the following Condition of Approval:

Condition of Approval:

1. No restroom facilities shall be constructed within the accessory structure unless a Conditional Use Permit for an accessory apartment is approved by the Board of Zoning Adjustment, and all other applicable regulations are met.

**The vote was as follows:**

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

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**PUBLIC HEARING**

**CASE NUMBER 17VARIANCE1050**

Request:	Variances to allow an accessory structure to encroach into the rear and side setbacks
Project Name:	2172 Emerson Avenue Garage
Location:	2172 Emerson Avenue
Owner:	Karen Guilkey
Applicant:	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 5<sup>th</sup> 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:**

**02:01:52** 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:**

Ann Del Prince, 640 Country Club Rd., Louisville, KY 40206

**Summary of testimony of those in favor:**

**02:06:51** Ann 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.

**02:08:22      Board Members' deliberation**

**02:09:25**      On a motion by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the requested variances will not adversely affect the public health, safety or welfare as the garage already encroaches into the setbacks, which has caused no known adverse effects, and

**WHEREAS**, the Board further finds that the requested variances will not alter the essential character of the general vicinity as the encroachments will not be visible from the right-of-way, and

**WHEREAS**, the Board further finds that the requested variances will not cause a hazard or nuisance to the public as the existing rear encroachment is almost as great as the proposed encroachment, and the side encroachment is not proposed to change, which has caused no known hazard or nuisance, and

**WHEREAS**, the Board further finds that the requested variances will not allow an unreasonable circumvention of the zoning regulations as the side encroachment is not proposed to change, and the rear encroachment is changing by a small degree, and

**WHEREAS**, the Board further finds that the requested variances arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the garage is existing and it is being remodeled, 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 adding space into the new game room being created from the existing garage, and

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

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from which relief is sought as the applicant is requesting the variances and has not begun construction, and

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

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1050 does hereby **APPROVE** Variance from Land Development Code Section 5.4.2.C.3.a to allow an accessory structure to encroach into the required rear setback **(Requirement 5 ft., Request 4.458 ft., Variance 0.542 ft.)** and to allow an accessory structure to encroach into the required side setback **(Requirement 2 ft., Request 1.25 ft., Variance 0.75 ft.)**, based upon the Staff Report, the applicant's site plan and the testimony heard today.

**The vote was as follows:**

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

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**September 11, 2017**

**PUBLIC HEARING**

**CASE NUMBER 17VARIANCE1052**

Request:	Variance to allow a structure to encroach into the required street side yard setback
Project Name:	2400 Top Hill Road Addition
Location:	2400 Top Hill Road
Owner:	Karen H Wunderlin Trust
Applicant:	Mary Herd Jackson
Representative:	Mary Herd Jackson
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
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 5<sup>th</sup> 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:**

**02:11:30** Dante St. Germain presented the case and showed a Powerpoint presentation. Ms. St. Germain stated she had received a telephone call in opposition after the Staff Report had been published. Ms. St. Germain stated the caller advised she would send an email but this email has never been received. 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:**

Mary Jackson, 75 Westwind Road, Louisville, KY 40207  
Karen Wunderlin, 2400 Top Hill Road, Louisville, KY

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**Summary of testimony of those in favor:**

**02:19:00** Mary Jackson spoke on behalf of the applicant in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

**02:24:12** Karen Wunderlin, the owner of the property, spoke in favor of the request and responded to a questions from the Board Members (see recording for detailed presentation).

**The following spoke in opposition of the request:**

No one spoke.

**02:26:14 Board Members' deliberation**

**02:26:42** 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 as the encroachment will not obscure sight lines at the corner, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the addition will be constructed to match the existing structure, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed addition will not encroach into the sight triangle at the corner, 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 as the property is roughly rectangular and has the same topographical constraints as the rest of the lots along Top Hill Road, and

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



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preventing the applicant from adding a master bedroom suite onto the existing residence, and

**WHEREAS**, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not begun construction, and

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

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1052 does hereby **APPROVE** Variance from Land Development Code Table 5.3.1 to allow a structure to encroach into the required street side yard setback (**Requirement 25 ft., Request 4 ft., Variance 21 ft.**), based upon the presentation, the Staff Report, the discussion, and the applicant's justification.

**The vote was as follows:**

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

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**CASE NUMBER 17VARIANCE1051**

Request:	Variance to exceed maximum setback
Project Name:	Primrose School
Location:	14801 Bush Farm Road
Owner:	Papa Oreo DS, LLC
Applicant:	Primrose School Franchising, Co.
Representative:	Land Design & Development, Inc.
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton
Case Manager:	Joel Dock, 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 5<sup>th</sup> 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:**

**02:28:36** Joel Dock presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

**The following spoke in favor of the request:**

Kevin Young, 503 Washburn Ave., Louisville, KY 40222  
Anne Almond, 1151 Dorsey Lane, Louisville, KY

**Summary of testimony of those in favor:**

**02:32:39** Kevin Young spoke in favor of the request and showed a Powerpoint presentation. Mr. Young responded to questions from the Board Members (see recording for detailed presentation).

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**02:35:08** Anne Almond spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

**The following spoke in opposition of the request:**

No one spoke.

**02:36:32 Board Members' deliberation**

**02:37:07** 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 as the proposed setback does not impact the safe movement of pedestrian or vehicular traffic, and provides for increased distance between outdoor recreation areas and public ways, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity as it will provide increased separation between residential properties and the non-residential structure, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed setback does not impact the safe movement of pedestrian or vehicular traffic, and provides for increased distance between outdoor recreation areas and public ways, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the building's location and design on this double frontage lot necessitates the request, 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 lot is double frontage and the maximum setback applies to each roadway, 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

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create an unnecessary hardship on the applicant as the requested variance does not appear to present a hazard or nuisance to the public or adversely affect the public health, safety, and welfare, 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; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1051 does hereby **APPROVE** Variance from Land Development Code Section 5.3.1.C.5 to exceed the maximum setback of 80 feet along Hamilton Springs Drive to allow a maximum setback of 153 feet at the buildings furthest point and 100 feet at its closest, based upon the Staff Report and the applicant's testimony.

**The vote was as follows:**

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

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**CASE NUMBER 17DEVPLAN1150**

Request:	Modification of an existing Category 3 Development Plan for a proposed mixed-use YMCA as approved by BOZA on Sept. 21, 2015.
Project Name:	YMCA @ 1700 Broadway
Location:	1700 West Broadway
Owner:	Steve Tarver – YMCA
Applicant:	Steve Tarver – YMCA
Representative:	Brooks Benton – Lockett & Farley
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 5<sup>th</sup> 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:**

**02:39:44** 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:**

Morgan Hawker, 737 S. 3<sup>rd</sup> Street, Louisville, KY 40202  
Derek Brooks, 737 S. 3<sup>rd</sup> Street, Louisville, KY 40202

**Summary of testimony of those in favor:**

**02:47:47** Morgan Hawker and Derek Brooks spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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**The following spoke in opposition of the request:**

No one spoke.

**02:52:17      Board Members' deliberation**

**02:53:54**      On a motion by Member Howard, seconded by Vice Chair Jarboe, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that all of the applicable Guidelines and Policies of Cornerstone 2020 and the Comprehensive Plan are being met, and

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

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 17DEVPLAN1150 does hereby **APPROVE** a Modified Category 3 Development Plan for the proposed 2 story (38'8" tall) mixed-use YMCA containing Office Space/Healthcare Center/Bank having a combined gross floor area of 76,500 sf, based upon the Staff Report, the applicant's letter of July 21, 2017, and the testimony and evidence presented today.

**The vote was as follows:**

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

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**CASE NUMBER 16CUP1065**

Request:	Conditional Use Permit to allow a short term rental in the Traditional Neighborhood Zoning District
Project Name:	Street Short Term Rental
Location:	1324 S. Brook St.
Owner:	Jeff Ross
Applicant:	Jeff Ross
Representative:	Jeff Ross
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Brian Mabry, AICP, Planning & Design Supervisor

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

**02:57:11** Brian Mabry presented the case and showed a Powerpoint presentation. Mr. Mabry stated the standard Condition of Approval for Short Term Rentals has been modified slightly and the intent is to read this into the record each time just so everyone is clear that these registrations are required. Mr. Mabry responded to questions from the Board Members (see staff report and recording for detailed presentation).

**The following spoke in favor of the request:**

Jeff Ross, 1324 S. Brook Street, Louisville, KY 40208  
Cheryl Fusselman, 1325 S. Brook Street, Louisville, KY 40208  
Faith Yascone, 1335 S. Brook Street, Louisville, KY 40208

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**Summary of testimony of those in favor:**

**03:02:48** Jeff Ross spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

**03:13:04** Cheryl Fusselman spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

**03:14:54** Faith Yascone spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

**The following spoke neither for nor against the request:**

Lauren Bearden, 1291 Everett Avenue, Louisville, KY 40204

**Summary of testimony of those neither for nor against:**

**03:17:31** Lauren Bearden spoke neither for nor against the request (see recording for detailed presentation).

**The following spoke in opposition of the request:**

Jacqueline Smith, 1328 S. Brook Street, Louisville, KY 40208

**Summary of testimony of those in opposition:**

**03:19:06** Jacqueline Smith spoke in opposition of the request. Ms. Smith stated the applicant stated he has received no complaints from any of the neighbors; however, at the neighborhood meeting many of the neighbors stated their concerns. Ms. Smith responded to questions from the Board Members (see recording for detailed presentation).

**REBUTTAL:**

**03:25:59** Jeff Ross spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).



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**03:31:10      Board Members' deliberation**

**03:34:01**      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 does not conflict with Comprehensive Plan policies, and

**WHEREAS**, the Board further finds that the proposed use is compatible with surrounding development. The carriage house received a Certificate of Appropriateness from the Old Louisville Architectural Review Board, and

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

**WHEREAS**, the Board further finds that:

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

- 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. **Each unit may have a short term rental contract at any given time.**
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **According to the applicant, the main residence has two bedrooms and the carriage house will have two bedrooms. Therefore, each unit can accommodate a maximum of 8 quests.**

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- D. The dwelling unit shall be a single-family residence, duplex or condominium. This provision shall not be waived or adjusted. **The main residence is a single-family dwelling. The second building is a carriage house that is associated with the main building.**
- 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. **LDC regulations credit the property frontage of 40 feet with two on-street parking spaces. The carriage house will have space for two vehicles on the first floor; however, the applicant intends to use one of those for his personal vehicle. There is adequate space to the side of the parking garage to accommodate to vehicles with tandem parking.**
- 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 16CUP1065 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit in the Old Louisville Traditional Neighborhood Zoning District (TNZD), based upon the presentation, the Staff Report, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

- 1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not

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registered with Develop Louisville and with the Revenue Commission within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.

2. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.

**The vote was as follows:**

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

**Abstain: Member Fishman**

**03:35:45 Meeting was recessed.**

**03:36:08 Meeting was reconvened.**

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**CASE NUMBER 17CUP1045**

Request:	Conditional Use Permit and landscape waiver to allow a medical facility (eye care surgery center) in an OR-3 zoning district
Project Name:	Bennett and Bloom Medical Office Building
Location:	9200 Leesgate Road
Owner:	BFW Partnership of Kentucky
Applicant:	Leesgate Holdings, LLC
Representative:	Clifford Ashburner
Jurisdiction:	Hurstbourne
Council District:	18 – Marilyn Parker
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 5<sup>th</sup> 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:**

**03:37:03** 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:**

Cliff Ashburner, 101 S. 5<sup>th</sup> Street, Louisville, KY 40202  
Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

**Summary of testimony of those in favor:**

**03:40:58** Cliff Ashburner spoke in favor of the request and showed a Powerpoint presentation. Mr. Ashburner stated the applicant has agreed to add two additional feet of buffer to the west property line. Mr. Ashburner responded to questions from the Board Members (see recording for detailed presentation).

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**03:57:12** Steve Porter spoke in favor of the request. Mr. Porter stated he represents the neighbor, Mr. McCord, and they are satisfied with the approval of this upon the condition the driveway be reduced to the 16 foot width and the double row of arborvitae be planted in that landscape buffer area all the way back (see recording for detailed presentation).

**03:59:39** Cliff Ashburner spoke in regard to the signage at the entrance of the site (see recording for detailed presentation).

**The following spoke in opposition of the request:**

No one spoke.

**04:00:37 Board Members' deliberation**

**04:02:58** On a motion by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

**Conditional Use Permit to allow a medical office building/eye care surgery center in an OR-3 Zoning District:**

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the applicable policies of the Comprehensive Plan. The required tree canopy and landscape requirements will be met, and

**WHEREAS**, the Board further finds that the proposal is compatible with the general character of the surrounding neighborhoods in terms of scale, intensity, traffic, noise, drainage and appearance, and

**WHEREAS**, the Board further finds that the proposal has been reviewed by MSD and Transportation Planning and both have approved the plan. The Lyndon Fire Protection District has reviewed the proposal for fire protection and emergency access only. This proposal will require a detailed fire protection plan review, and

**WHEREAS**, the Board further finds that:

Hospitals, Clinics, and Other Medical Facilities requiring a Certificate of Need issued by the Commonwealth of Kentucky, including hospitals, clinics, and other

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medical facilities, may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements:

- A. Signs - One freestanding sign, not to exceed 80 square feet in area or 10 feet in height, may be placed at each of the major entrances, except in districts where signs are allowed. Attached signs may be located at any height. The Board shall determine the size of all attached signs.
- B. All buildings and structures shall be at least 30 feet from any property line, and

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

**Landscape Waiver to reduce the required landscaping and buffering along the west property line:**

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as the applicant is working with the abutting property owners to provide screening that would decrease the amount of light and noise from cars on the site, and

**WHEREAS**, the Board further finds that Guideline 3, Policy 9 of Cornerstone 2020 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 mitigation of 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 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,

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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 airborne and waterborne pollutants, 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 drive was already in existence prior to the proposed development, and

**WHEREAS**, the Board further finds that the strict application of the provisions of the regulations would deprive the applicant of the reasonable use of land or would create an unnecessary hardship on the applicant as the roadway would have to be removed and access to the site would be restricted to the crossover access easement from the property to the east, and

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

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1045 does hereby **APPROVE** Conditional Use Permit to allow a medical office building/eye care surgery center in an OR-3 Zoning District and Landscape Waiver to reduce the required landscaping and buffering along the west property line, noting a change to the Staff Report based upon the applicant's statement **(Requirement 20 feet, Request 12 feet, Waiver 8 feet)** requiring a revision to the site plan and landscaping plan presented to staff, based upon the testimony, the Staff Report, the applicant's justification, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
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 medical office building/eye surgery center without further review and approval by the Board.
3. A revised site plan shall be submitted to staff showing the driveway will be reduced to 16 feet.

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4. There shall be an addition to the Landscaping Plan that will include double rows of arborvitae per the applicant's statement at the September 11, 2017 Board of Zoning Adjustment hearing.

**The vote was as follows:**

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



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**CASE NUMBER 17CUP1036**

Request:	Conditional Use Permit to allow a short term rental that is not the primary residence of the host in an R-5 zone
Project Name:	Short-Term Rental
Location:	1924 Stevens Avenue
Owner:	Glitter Bourbon Berries LLC
Applicant:	Glitter Bourbon Berries LLC
Representative:	Glitter Bourbon Berries LLC
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
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 5<sup>th</sup> 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:**

**04:08:31** 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:**

Anthony Raspberry, 2057 Douglass Blvd., Louisville, KY

**Summary of testimony of those in favor:**

**04:13:20** Anthony Raspberry 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.

**04:16:56      Board Members' deliberation**

**04:19:59**      On a motion by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

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

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

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

**WHEREAS**, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **According to the applicant, the dwelling unit has two bedrooms; LDC regulations permit 8 guests.**

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- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted. **The dwelling unit is a single-family residence.**
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **The site has one on-street parking space and two on-site parking spaces.**
- 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 17CUP1036 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the owner in an R-5 Single-Family Residential Zone, based upon the Staff Report noting a correction to page 2 (Item C) regarding the occupancy permitted (shall be limited to 8 guests), and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not registered with Develop Louisville and with the Revenue Commission within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.

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2. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.

**The vote was as follows:**

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

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**CASE NUMBER 17CUP1037**

Request:	Conditional Use Permit to allow a short term rental that is not the primary residence of the host in an R-6 zone
Project Name:	Short-Term Rental
Location:	1115 Highland Avenue
Owner:	Glitter Bourbon Berries LLC
Applicant:	Glitter Bourbon Berries LLC
Representative:	Glitter Bourbon Berries LLC
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
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 5<sup>th</sup> 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:**

**04:22:20** Beth Jones presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

**04:25:51** Joe Haberman responded to a question from Chair Allendorf regarding the change in language of the Conditions of Approval on the short term rentals (see recording for detailed presentation).

**The following spoke in favor of the request:**

Anthony Raspberry, 2057 Douglass Blvd., Louisville, KY

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**Summary of testimony of those in favor:**

**04:27:05** Anthony Raspberry 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.

**04:30:20 Board Members' deliberation**

**04:30:51** On a motion by Member Howard, seconded by Vice Chair Jarboe, the following resolution was adopted:

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

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

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

**WHEREAS**, the Board further finds that:

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

- 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.

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- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **According to the applicant, the dwelling unit has one bedroom; LDC regulations permit up to six persons.**
- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted. **The dwelling is a single-family residence.**
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **Two on-street parking spaces are available.**
- 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 17CUP1037 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the owner, based upon the Staff Report, the testimony heard today, and **SUBJECT** to the following Conditions of Approval:

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Conditions of Approval:

1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not registered with Develop Louisville and with the Revenue Commission within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.
2. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.

**The vote was as follows:**

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



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**CASE NUMBER 17CUP1053**

Request:	Conditional Use Permit to allow a short term rental that is not the primary residence of the host in an R-5 zone
Project Name:	Short-Term Rental
Location:	1021 Reasor Avenue
Owner:	Matthew and Julie Gatewood
Applicant:	Matthew and Julie Gatewood
Representative:	Matthew and Julie Gatewood
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
Case Manager:	Beth Jones, AICP, Planner II

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

**04:33:12** Beth Jones presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

**The following spoke in favor of the request:**

Matthew Gatewood, 2225 Tyler Lane, Louisville, KY

**Summary of testimony of those in favor:**

**04:35:50** Matthew Gatewood 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.

**04:38:02      Board Members' deliberation**

**04:38:29**      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 does not conflict with Comprehensive Plan policies, and

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

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

**WHEREAS**, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **According to the applicant, the dwelling has two bedrooms; LDC regulations permit up to eight guests.**

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- D. The dwelling unit shall be a single-family residence, duplex or condominium. This provision shall not be waived or adjusted. **The dwelling unit is a single-family residence.**
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **Parking is available on-street and in the driveway.**
- 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 17CUP1053 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the owner in an R-5 Single-Family Residential Zone, based upon Staff Report, the applicant's testimony, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

- 1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not registered with Develop Louisville and with the Revenue Commission within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.
- 2. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.

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**The vote was as follows:**

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

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**CASE NUMBER 16CUP1063**

Request:	Conditional Use Permit to allow student housing in the Broadway sub-area of the SoBro PDD
Project Name:	200 & 212 W. Broadway
Location:	200 & 212 W. Broadway
Owner:	Second and Broadway, LLC
Applicant:	Luckett & Farley Development, LLC
Representative:	Luckett & Farley Architects, Engineers, and Construction Managers, LLC
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Brian Mabry, AICP, Planning & Design Supervisor

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

**04:40:38** Brian Mabry presented the case and showed a Powerpoint presentation. Mr. Mabry responded to questions from the Board Members (see staff report and recording for detailed presentation).

**The following spoke in favor of the request:**

Morgan Hawker, 737 S. 3<sup>rd</sup> Street, Louisville, KY 40202

**Summary of testimony of those in favor:**

**04:47:16** Morgan Hawker spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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**04:53:40** Brian Mabry responded to questions from Legal Counsel and the Board Members (see recording for detailed presentation).

**The following spoke in opposition of the request:**

No one spoke.

**04:55:57 Board Members' deliberation**

**04:57:05** On a motion by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the proposal does not conflict with Comprehensive Plan policies. The redevelopment of the existing building into student housing retains the grid pattern in the Downtown. The proposal is compatible with the scale and site design of nearby existing development. It is also consistent with the form district's pattern of development, which includes a mix of uses, grid street pattern and higher density. The proposal includes the reuse of an existing building to provide residential and office use along with supporting retail and restaurant/coffee shop use. The subject property is at the intersection of two bus routes and near several bus stops. Large sidewalks are adjacent to the subject property. The existing building materials are consistent with the area. Open space is provided in the form of modest existing landscaping, appropriate for downtown, and

**WHEREAS**, the Board further finds that the applicant proposes to retain the existing characteristics of the exterior of the building, which are compatible with its surroundings, and

**WHEREAS**, the Board further finds that the subject property is served by existing public utilities and facilities; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 16CUP1063 does hereby **APPROVE** Conditional Use Permit to allow Student Housing in the Broadway sub-area of the SoBro PDD, based upon the Staff Report, the testimony, the site plan, the justification statement from Luckett &

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Farley received on June 21, 2017, acknowledging the statement of the neighborhood meeting which no one attended, 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 student housing without further review and approval by the Board.

**The vote was as follows:**

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

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**DIRECTOR'S REPORT**

**04:59:24** Emily Liu, Director, Planning & Design Services, advised the Board Members of the APA Conference on September 29, 2017. Ms. Liu provided the Board Members with informational brochures. Ms. Liu stated the Conference would qualify for eight hours of training, and encouraged the Board Members to attend.



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**ADJOURNMENT**

The meeting adjourned at approximately 2:29 p.m.

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**Chair**

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**Secretary**