

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

November 20, 2017

A meeting of the Louisville Metro Board of Zoning Adjustment was held on November 20, 2017 at 8:30 a.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Mike Allendorf, Chair
Rosalind Fishman, Secretary
Lula Howard
Lester Turner
Dwight Young

Members Absent:

Betty Jarboe, Vice Chair
Richard Buttorff

Staff Members Present:

Joe Haberman, Planning & Design Manager
Brian Mabry, Planning & Design Supervisor
Beth Jones, Planner II
Dante St. Germain, Planner I
Laura Mattingly, Planner II
Joel Dock, Planner II
John Carroll, Legal Counsel
Travis Fiechter, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

NOVEMBER 6, 2017 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:03:30 On a motion by Member Turner, 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 November 6, 2017.

The vote was as follows:

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

Absent: Member Buttorff, and Vice Chair Jarboe

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BUSINESS SESSION

CASE NUMBER 17VARIANCE1076

Request:	Variance to allow a structure to encroach into the required side yard setback
Project Name:	1134 Dove Road Addition
Location:	1134 Dove Road
Owner:	Donald & Sharon Beavin
Applicant:	Donald Beavin
Representative:	Donald Beavin
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
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:

00:05:32 Dante St. Germain presented the case and showed the site plan. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

00:10:05 On a motion by Member Howard, seconded by Member Turner, 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 addition will be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposed addition is not visible from the right of way, and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the footprint of the residence will still be similar to the surrounding homes after the proposed addition is built, 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 as the property is regular in shape and of a similar size to neighboring properties. There are no known topographical constraints, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as there are similar additions on the surrounding properties, 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 17VARIANCE1076 does hereby **APPROVE** Variance from Land Development Code Table 5.3.1 to allow a structure to encroach into the required side yard setback (**Requirement 6 ft., Request 3.5 ft., Variance 2.5 ft.**), based upon the Staff Report, the site plan, the elevation, and the applicant's justification.

The vote was as follows:

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

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BUSINESS SESSION

CASE NUMBER 17VARIANCE1077

Request:	Variance to allow a private yard area to be less than 20% of the area of a lot
Project Name:	1137 Sylvia Street Addition
Location:	1137 Sylvia Street
Owner:	Joseph & Deborah Brady
Applicant:	John S. Blair
Representative:	John S. Blair
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
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:

00:12:29 Dante St. Germain presented the case and showed the site plan. 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:

Sherry Blair, 4802 Seville Drive, Louisville, KY 40272
John Blair, 4811 Palma Road, Louisville, KY 40272

Summary of testimony of those in favor:

00:14:48 Sherry Blair spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:15:55 John Blair 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.

00:19:31 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 proposed addition will be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposed addition will use similar materials to 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 be constructed according to building codes, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as significant private yard area will remain, 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 as the addition as the lot is regular in shape and similar in size to surrounding properties, 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 building an addition onto the existing structure, 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

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CASE NUMBER 17VARIANCE1077

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1077 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.3 for a reduction in the private yard area (**Requirement 649 sq. ft., Request 320 sq. ft., Variance 329 sq. ft.**), based upon the Staff Report, the presentation, the site plan, and the applicant's justification.

The vote was as follows:

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

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CASE NUMBER 17VARIANCE1084

Request:	Variance to allow a structure to encroach into the required side yard setback
Project Name:	517 Lola Road Garage
Location:	517 Lola Road
Owner:	Chelsea Slevin
Applicant:	Chelsea Slevin
Representative:	Chelsea Slevin
Jurisdiction:	City of St. Matthews
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 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:

00:21:04 Dante St. Germain presented the case and showed the site plan. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

00:22:47 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 setback of the new garage will be the same as the setback of the existing garage, 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 garage has been in its current

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position for many years and other properties in the neighborhood have garages with similar setbacks, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed garage will have the same setback as the existing garage, which has caused no known hazard or nuisance, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed setback previously existed and is proposed to be maintained, 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 a garage previously existed with the proposed setback and the proposed garage is to maintain the prior setback, 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 relocate part of the driveway leading to the garage after the garage is shifted to the side, 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 17VARIANCE1084 does hereby **APPROVE** Variance from St. Matthews Development Code Section 4.6.C.2.b to allow an accessory structure to encroach into the required side yard setback (**Requirement 6 ft., Request 2 ft., Variance 4 ft.**), based upon the Staff Report, the presentation, the site plan and elevations, and the applicant's justification.

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The vote was as follows:

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

Absent: Member Buttorff, and Vice Chair Jarboe

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CASE NUMBER 17CUP1094

Request:	Modification of an approved Conditional Use Permit to allow the reduction in the number of units and widening the drive aisles
Project Name:	None
Location:	4905 R Cooper Chapel Road
Owner:	Charles Davis, Jr. and Renay Davis
Applicant:	Jason Sams
Representative:	Jason Sams
Jurisdiction:	Louisville Metro
Council District:	24 – Madonna Flood
Case Manager:	Jon E. Crumbie, Planning and Design Coordinator

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

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

Agency Testimony:

00:24:23 Brian Mabry presented the case on behalf of the Case Manager, Jon Crumbie, and showed a Powerpoint presentation. Mr. Mabry responded to questions from the Board Members (see staff report and recording for detailed presentation).

00:30:54 On a motion by Member Howard, seconded by Member Fishman, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that:

Mini-warehouses may be allowed in the C-2 District where the premises abut on a roadway classified as a collector or major or minor arterial as designated in the Comprehensive Plan for all of Jefferson County, Kentucky, upon the granting of a Conditional Use Permit and compliance with the listed requirements. There are

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seven requirements and six will be met. The applicant is asking for relief of item F.

- A. The property shall be landscaped so as to blend in with the surrounding area and shall be screened and buffered from adjacent uses of a non-industrial nature.
- B. No building, structure or pavement shall be located closer than 30 feet to side property lines or property lines abutting residential areas. This area is reserved as a landscape buffer area.
- C. No outside storage shall be allowed on the property.
- D. No storage of toxic or hazardous materials shall be allowed on the property.
- E. There shall be no retail or wholesale sales or distributing activities on site.
- F. No structure on the site shall be taller than one story and shall not exceed 15 feet in height (except for one freestanding sign as allowed in H below). **The 1-story structure will be 25 feet in height.**
- G. Signs - Only one freestanding sign shall be allowed and shall conform to limits established for the form district in which the sign is located, and

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1094 does hereby **APPROVE** Modified Conditional Use Permit to allow the following:

- Removing all proposed lots lines from the plan
- Lowering the indoor air conditioned storage building from 3 stories (35 feet and 77, 625) to 1 story (25 feet and 25,880 square feet)
- Modifying the mini-warehouses to allow larger trucks to traverse the site
- Modifying the mini-warehouse access isles to allow for larger trucks to traverse the site,

noting modification to Item F on page 3 of the Staff Report as follows "The 1 story structure will be 25 feet in height", based upon the Staff Report, the applicant's justification statement, the site plan, and **SUBJECT** to the following Conditions of Approval:

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Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used as a mini-warehouse facility without further review and approval by the Board.
3. The applicant shall consolidate all lot lines as shown on the development plan, record, and submit a copy to Board staff.

The vote was as follows:

Yes: Members Fishman, Howard, Turner, Young,

Abstain: Chair Allendorf

Absent: Member Buttorff, and Vice Chair Jarboe

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CASE NUMBER 17VARIANCE1081

Request:	Variance to allow a structure to encroach into the required side and rear yard setbacks
Project Name:	2634 Drayton Dr
Location:	2634 Drayton Dr
Owner:	David and Anne Douglas
Applicant:	Wissing Contracting Co.
Representative:	Pat Wissing
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Beth Jones, 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:

00:34:48 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:

Nick Kayrouz, 3812 Warner Avenue, Louisville, KY 40207

Summary of testimony of those in favor:

00:36:53 Nick Kayrouz spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:37:57 On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested reductions of the required rear and side yards will not deprive adjacent properties or the public right-of-way of light, air or privacy, and

WHEREAS, the Board further finds that the placement of the garage resulting from these variance requests is consistent with garage placement on properties in the vicinity, and

WHEREAS, the Board further finds that the proposed construction will meet current building codes and requirements and will not cause a public hazard or nuisance through excessive noise, vibration, odor or light, and

WHEREAS, the Board further finds that the requested variances are not unreasonable as they will result in development of the property that is consistent with other development in the vicinity; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1081 does hereby **APPROVE** Variance to permit a structure to encroach into the rear yard setback (**LDC 5.4.2.C.3.b – Requirement 5 ft., Request 3 ft., Variance 2 ft.**), and Variance to permit a structure to encroach into the side yard setback (**LDC 5.4.2.C.3.a – Requirement 2 ft., Request 1 ft., Variance 1 ft.**), based upon the presentation, the Staff Report, the site plan and the elevations.

The vote was as follows:

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

Absent: Member Buttorff, and Vice Chair Jarboe

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CASE NUMBER 17VARIANCE1068

Request:	Variance to allow a structure to encroach into the side yard setback
Project Name:	922 Swan Street Addition
Location:	922 Swan Street
Owner:	Bryan Gillespie
Applicant:	Bryan Gillespie
Representative:	Bryan Gillespie
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Dante St. Germain, Planner I

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.

NOTE: At the discretion of the Chair, this item was added to today's agenda to allow the Board an opportunity to vote on scheduling a RECONSIDERATION REQUEST.

Agency Testimony:

00:40:00 Dante St. Germain stated this case was heard on October 30, 2017 and the Board was unanimous in denying the requested Variance. Ms. St. Germain stated we have received a request from counsel for the applicant to request a reconsideration under BOZA Policy 8, and that was received yesterday afternoon (see recording for detailed presentation).

The following spoke in favor of the request:

Jon Baker, 500 W. Jefferson Street, Suite 2800, Louisville, KY 40202

Summary of testimony of those in favor:

00:41:39 Jon Baker spoke on behalf of the applicant in favor of the request. Mr. Baker requested this case be scheduled for a reconsideration request. Mr. Baker stated there is new information related to the request. Mr. Baker stated during Public Hearing on October 30, 2017, Janelle Samuels, owner of 924 Swan Street, spoke in opposition to the matter. Mr. Baker stated she is represented today through Greg Earhardt. Mr. Baker stated he has spoken with Greg and

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they believe they can work out an agreement between the two property owners. Mr. Baker stated Ms. Samuels would be in favor of the Variance if this Board would be so inclined to reconsider that matter (see recording for detailed presentation).

The following spoke in representation of the opposition:

Greg Earhardt, 400 W. Market Street, 18th Floor, Louisville, KY 40202

Summary of testimony for the opposition:

00:45:00 Greg Earhardt spoke on behalf of the opposition. Mr. Earhardt stated they think there is a way that Mr. Gillespie can fix some of the concerns that Ms. Samuels had at the time of the hearing (see recording for detailed presentation).

00:46:25 On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1068 does hereby **APPROVE** a **RECONSIDERATION REQUEST** for this Case to be heard at the **December 4, 2017** Board of Zoning Adjustment Public Hearing.

The vote was as follows:

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

Abstain: Member Young

Absent: Member Buttorff, and Vice Chair Jarboe

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PUBLIC HEARING

CASE NUMBER 17VARIANCE1086

Request:	Variance to allow a fence in the street side yard setback to exceed 48" in height
Project Name:	6651 Sylvania Road Fence
Location:	6651 Sylvania Road
Owner:	Angela Beckner
Applicant:	Angela Beckner
Representative:	Angela Beckner
Jurisdiction:	Louisville Metro
Council District:	12 – Rick Blackwell
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:

00:48:28 Dante St. Germain presented the case and showed a Powerpoint presentation. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Angela Beckner, 6651 Sylvania Road, Louisville, KY 40272

Summary of testimony of those in favor:

00:54:48 Angela Beckner 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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CASE NUMBER 17VARIANCE1086

01:00:33 **Board Members' deliberation**

01:05:45 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 fence does not obstruct sight lines at the corner, and

WHEREAS, the Board further finds that the fence makes the property look better, will increase the resale value of the home, and several houses around also have these fences, and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the fence is needed for personal safety and will not obstruct a driver's site distance, 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 reduce the height of an existing fence, 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 17VARIANCE1086 does hereby **APPROVE** Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence in the street side yard in the Neighborhood form district to exceed 48 inches in height (**Requirement 4 ft., Request 6 ft., Variance 2 ft.**), based upon the Staff Report except for Items B and D on page 2, the discussion, the presentation, and the applicant's justification.

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The vote was as follows:

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

Absent: Member Buttorff, and Vice Chair Jarboe

01:09:45 Meeting was recessed.

01:10:08 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 17VARIANCE1085

Request:	Variance to allow a structure to encroach into the required side yard setback
Project Name:	Bee Hive Homes
Location:	8401 La Grange Rd
Owner:	Flip Flop Land, LLC
Applicant:	Flip Flop Land, LLC
Representative:	Civil Design, Inc
Jurisdiction:	Lyndon
Council District:	7 – Angela Leet
Case Manager:	Laura Mattingly, 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:

01:10:28 Laura Mattingly presented the case and showed a Powerpoint presentation. Ms. Mattingly responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Missy Legel, 3404 Stony Spring Circle, Louisville, KY 40291
Jason Lange, 11106 Decimal Drive, Louisville, KY 40291

Summary of testimony of those in favor:

01:16:38 Missy Legel spoke in favor of the request (see recording for detailed presentation).

01:18:32 Jason Lange 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 neither for nor against the request:

Calvin Shuck, 1301 Etawah, Louisville, KY 40222

Summary of testimony of those neither for nor against:

01:19:32 Calvin Shuck spoke neither for nor against the request. Mr. Shuck stated his real concern was the sign, it was constantly down. Mr. Shuck stated he called to request further information and never received a return call. Mr. Shuck stated he went online and tried to find it and didn't find anything (see recording for detailed presentation).

01:22:15 Joe Haberman provided information on accessing information on the public website (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

01:23:22 Board Members' deliberation

01:24:07 On a motion by Member Howard, seconded by Member Fishman, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the setback of the building addition will be extending the building façade away from the intersection and will not affect sight lines for vehicles or pedestrians, 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 compatible with the existing building and setback the same as the existing façade, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the setback of the building addition will be extending the building façade away from the intersection and will not affect sight lines for vehicles or pedestrians, and

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WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed setback is an extension of the existing building wall which was previously granted a variance of 3', 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 width is not ideal for a non-residential use and the existing footprint renders compliance with the side yard setback difficult, 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 redesign the interior of the building for the addition, 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 setback regulation has been in place before even the original building footprint was established, 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 17VARIANCE1085 does hereby **APPROVE** Variance from City of Lyndon Land Development Code Section 5.3.1 to allow an addition to an existing structure to encroach into the required street side yard setback (**Requirement 20 ft., Request 17 ft., Variance 3 ft.**), based upon the presentation, the Staff Report, the applicant's justification, the site plan and the elevations.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 17VARIANCE1083

Request:	Fence height variance and public realm waiver for parking
Project Name:	Fence and Drive
Location:	2225 Sycamore Avenue
Owner:	John K. Fisher
Applicant:	John K. Fisher
Representative:	John K. Fisher
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
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 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:

01:26:19 Joel Dock presented the case and showed a Powerpoint presentation. Mr. Dock responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

John Fisher, 908 Wicksbury Place, Louisville, KY 40207
Sally Spur, 2238 Sycamore Avenue, Louisville, KY 40206

Summary of testimony of those in favor:

01:33:57 John Fisher spoke in favor of the request. Mr. Fisher stated the Clifton ARC had approved the fence and had also approved the driveway with the stipulation that it would go back to staff to consider drainage issues. Mr. Fisher responded to questions from the Board Members (see recording for detailed presentation).

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01:37:33 Sally Spur spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

01:40:20 Board Members' deliberation

01:41:36 On a motion by Member Fishman, seconded by Member Turner, the following resolution was adopted:

Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence to be greater than 42" in the street side yard and be a maximum of 6'6" in height at its greatest point:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect public health, safety or welfare as the subject site is a single-family residential property and the provision of a privacy fence provides increased security and screening from the public right-of-way, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as fences of this type are not uncommon and due to the particular location of this property (topography, narrowness of the street, and tightly developed blocks) the fence will not impact the overall character of the area, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the encroachments will not result in any adverse impact on vehicular or pedestrian movement, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the applicant desires to provide privacy to the property from a public right-of-way in manner that is compatible with character of the area, 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 as the applicant desires to provide privacy to the property from a public right-of-way in

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manner that is compatible with character of the area, no nuisances or hazards are created, and the public health, safety, and welfare is maintained, 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 appropriate relief is being requested from the Board of Zoning Adjustment, and

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

Waiver from Land Development Code Section 5.4.1.B.1.e to allow parking in the public realm:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as it will allow a more accessible parking area from the public way to the single family home, and

WHEREAS, the Board further finds that the waiver will not violate specific guidelines of Cornerstone 2020 as it calls for residential development to be compatible with adjacent residential development and accessible to all persons. Parking in the public realm is not uncommon along this particular street and the slope of the rear yard makes traversing from the required accessory use area to the home difficult for individuals with physical constraints, 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 driveway in the public realm is necessary to make the home habitable for the potential occupants, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant as the waiver would not adversely impact adjacent property owners, meets the guidelines of Cornerstone 2020, and allows the desired occupants freedom of access to the residence, and

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

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RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1083 does hereby **APPROVE** Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence to be greater than 42” in the street side yard and be a maximum of 6’6” in height at its greatest point, and Waiver from Land Development Code Section 5.4.1.B.1.e to allow parking in the public realm, based upon the Staff Report, the applicant’s variance and waiver justification, and the site plan.

The vote was as follows:

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

Absent: Member Buttorff, and Vice Chair Jarboe

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CASE NUMBER 17VARIANCE1078

Request:	Modified conditional use permit and variances
Project Name:	Sproutlings Daycare
Location:	330 Masonic Home Drive
Owner:	Masonic Homes of KY, Inc
Applicant:	Masonic Homes of KY, Inc
Representative:	Dinsmore & Shohl, LLP – Clifford Ashburner
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Joel Dock, Planner II

NOTE: This case was heard with the following case (17CUP1084)

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:

01:43:51 Joel Dock presented the cases (17VARIANCE1078 and 17CUP1084) and showed a Powerpoint presentation. Mr. Dock responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the requests:

Cliff Ashburner, 101 S. 5th Street, Suite 2500, Louisville, KY 40202
Ashley Bartley, 1046 E. Chestnut Street, Louisville, KY 40204

Summary of testimony of those in favor:

01:50:21 Cliff Ashburner spoke in favor of the request and showed a Powerpoint presentation. Mr. Ashburner responded to questions from the Board Members (see recording for detailed presentation).

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01:54:56 Ashley Bartley spoke in favor of the request and referred to the site plan. Ms. Bartley responded to questions from the Board Members (see recording for detailed presentation).

01:57:09 Cliff Ashburner responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the requests:

No one spoke.

01:57:59 Board Members' deliberation

02:00:40 Public Hearing was reopened to allow a response from Mr. Ashburner regarding the applicant's justification statements (see recording for detailed presentation).

02:00:55 Board Members' deliberation

02:01:28 On a motion by Member Howard, seconded by Member Fishman, the following resolution was adopted:

(17CUP1084) Modified Conditional Use Permit to allow for revisions and an expansion to the existing approved conditional use permit of docket 13371 (approved 9/9/10):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposed modification and slight expansion to the area of the conditional use for parking facilities is in keeping with applicable policies of the Comprehensive Plan and with those findings of the Board of Zoning Adjustment in granting the conditional use permit on August 16, 2010, and

WHEREAS, the Board further finds that the proposal is compatible with surrounding land uses and the general character of the area as the Masonic Homes property is an integrated development with site design and building design that is consistent with the character of the development, immediately surrounding properties, and within the general vicinity, and

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WHEREAS, the Board further finds that necessary public facilities appear to be present to accommodate multiple modes of transportation, adequate drainage and run-off, emergency services, and the general health and welfare of the community, and

WHEREAS, the Board further finds that:

Day Care Facilities may be allowed in the R-R, R-E, R-1, R-2, R-3, U-N, R-5A, R-5B, R-6, and R-7 districts upon the granting of a Conditional Use Permit and in compliance with the listed requirements.

- A. Signs - There shall be allowed one non-illuminated sign identifying the name and use, which sign shall be limited in size to four square feet and be placed on the building.
- B. Residential Structure - The structure shall remain or shall be constructed so that the exterior design and ornamentation is residential in character and compatible with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential (except for the sign).
- C. Alterations or Improvements to the Structure - Where such a use is permitted in a structure which has been used as a residence, the permittee shall make no substantial alterations or improvements to the structure which would impair the structure's use as a residence at a later time.
- D. On-Site Drop-off and Pick-up Area - An on-site area shall be provided where passengers from automobiles may safely exit the automobile and enter the building and vice versa. The design of this area must be approved by the appropriate agency responsible for transportation planning.
- E. Parking Spaces - The appropriate number of parking spaces shall be provided for members of the day care center staff. The number of parking spaces required pursuant to this section shall be determined by the Board of Zoning Adjustment, and may thereafter be modified by the Board of Zoning Adjustment by petition from the owner of the premises granted a Conditional Use Permit or upon recommendation from the zoning inspector or other authorized personnel after an annual inspection of the premises or other such inspection. The parking layout must be approved by the appropriate agency responsible for transportation planning.
- F. Drainage Control - The development plan shall have the approval of the appropriate agency responsible for surface drainage control.

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- G. All buildings and structures shall conform to the requirements of the zoning and form district in which they are located.
- H. Fence - A fence with a minimum height of 4 feet shall be erected around the outdoor play area.
- I. Alterations or Improvements to the Property – Where such a use is permitted on a lot with an existing residential structure; the residential character of the lot shall not be disturbed by exterior changes to the property that are visible from the public street. Off-street parking shall not be located within the front and/or street-side yards. Drop- off and pick-up shall not be located in front yard and/or street-side yard of the existing residential structure, except for driveways approved by Metro Public Works.
- J. Conditional use permits for Day Care Facilities in R-4 and R-5 zoning districts issued prior to the effective date of this ordinance (March 9, 2011) may continue to operate as authorized under the approved conditional use permit. Upon request by an applicant, such conditional use permits may be modified in any manner the Board determined, in its discretion, to be appropriate.

The modification to the approved conditional use permit is in keeping with those findings of the Board of Zoning Adjustment in granting the conditional use permit on August 16, 2010. The conditional use permit at that time was found to meet these guidelines and the modifications continue to meet the intent of these guidelines; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1084 does hereby **APPROVE** Modified Conditional Use Permit to allow for revisions and an expansion to the existing approved conditional use permit of docket 13371 (approved 9/9/10), based upon the Staff Report, the applicant's presentation.

The vote was as follows:

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

02:03:18 On a motion by Member Howard, seconded by Member Fishman, the following resolution was adopted:

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CASE NUMBER 17VARIANCE1078

(17VARIANCE1078) Variances from Land Development Code Section 5.3.5.C.3.a to allow for parking and an accessory structure to encroach upon the street side yard setback at various locations as shown on the development plan:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variances will not adversely affect public health safety or welfare as the Masonic Homes property is an integrated development with mixed-uses, shared parking facilities, internal drives, and open space. Frankfort Avenue is screened and buffered with existing vegetation and the proposed parking encroaching and minor encroachment of a screened accessory use towards this public way would not appear to reduce or eliminate the existing vegetation, or create an unsafe situation for pedestrians or vehicular traffic, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the Masonic Homes property is an integrated development with site design and building design that is consistent with the character of the development, immediately surrounding properties, and within the general vicinity, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the encroachments will not cause a visual nuisance due to existing landscape screening or result in any adverse impact on vehicular and pedestrian traffic, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as parking facilities are being provided to accommodate the building expansion and at locations to avoid any adverse impact on drainage and water quality facilities (rain gardens). Existing screening is provided along Frankfort Avenue to protect the aesthetic quality of this way from the minimal encroachment of parking, 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 as sufficient parking must be provided to accommodate the use and the locations chosen for the proposed parking avoids disturbance of existing drainage and water quality facilities, 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 appropriate relief is being requested from the Board of zoning Adjustment; and

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CASE NUMBER 17VARIANCE1078

Variance from Land Development Code Section 5.3.5.C.3.b to allow for parking to encroach upon the side yard setbacks as shown on the development plan:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variances will not adversely affect public health safety or welfare as the Masonic Homes property is an integrated development with mixed-uses, shared parking facilities, internal drives, and open space. The adjacent use is an assisted living nursing facility with a similar parking layout which is consistent with the overall development of the Masonic Homes property, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the Masonic Homes property is an integrated development with site design and building design that is consistent with the character of the development, immediately surrounding properties, and within the general vicinity, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the encroachments will not result in any adverse impact on vehicular and pedestrian movement, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as parking facilities are being provided to accommodate the building expansion and at locations to avoid any adverse impact on drainage and water quality facilities (rain gardens), 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 parking is needed to cross the property line at this location, 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 as sufficient parking must be provided to accommodate the use and the locations chosen for the proposed parking avoids disturbance of existing drainage and water quality facilities, 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 appropriate relief is being requested from the Board of zoning Adjustment; now, therefore be it

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CASE NUMBER 17VARIANCE1078

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1078 does hereby **APPROVE** Variances from Land Development Code Section 5.3.5.C.3.a to allow for parking and an accessory structure to encroach upon the street side yard setback at various locations as shown on the development plan, and Variance from Land Development Code Section 5.3.5.C.3.b to allow for parking to encroach upon the side yard setbacks as shown on the development plan, based upon the Staff Report, the applicant's presentation, and the site plan.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 17CUP1084

Request:	Modified conditional use permit and variances
Project Name:	Sproutlings Daycare
Location:	330 Masonic Home Drive
Owner:	Masonic Homes of KY, Inc
Applicant:	Masonic Homes of KY, Inc
Representative:	Dinsmore & Shohl, LLP – Clifford Ashburner
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Joel Dock, Planner II

**NOTE: This case was heard with the previous case (17VARIANCE1078).
See pages 28-31 of these minutes for details and voting information.**

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.

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PUBLIC HEARING

CASE NUMBER 17CUP1058

Request:	CUP for a Private Proprietary Club
Project Name:	Hazelnut Farm
Location:	814 & 816 Eastwood Fisherville Road
Owner:	Ranjit Brar
Applicant:	Ranjit Brar
Representative:	Bardenwerper Talbott & Roberts
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton
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:

02:06:19 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).

02:17:43 Brian Mabry provided the definition of “private proprietary club” from the Land Development Code for the Board Members (see recording for detailed presentation).

02:18:11 Beth Jones responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

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

Kathy Linares, 5151 Jefferson Blvd., Suite 101, Louisville, KY 40219

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Summary of testimony of those in favor:

02:21:00 Nick Pregliasco spoke in favor of the request and showed a Powerpoint presentation. Mr. Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

02:37:06 Kathy Linares spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:38:52 Nick Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

02:41:53 Kathy Linares explained the reasons for the request for relief from the CUP requirement (see recording for detailed presentation).

02:43:02 Nick Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

02:44:18 Kathy Linares responded to questions from the Board Members (see recording for detailed presentation).

02:46:29 Beth Jones responded to questions from the Board Members (see recording for detailed presentation).

02:47:03 Board Members' deliberation

02:51:38 Public Hearing was reopened to allow additional testimony from Nick Pregliasco regarding a proposed Condition of Approval in regard to operating hours (see recording for detailed presentation).

02:55:34 Board Members' deliberation

02:58:34 On a motion by Member Fishman, seconded by Member Turner, the following resolution was adopted:

Conditional Use Permit for Private Proprietary Club in an R-4 zoning district (LDC 4.2.44):

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with Comprehensive Plan policies regarding setbacks, buffering and landscaping and preserves significant open space. Transportation facilities are compatible with surrounding land uses, and

WHEREAS, the Board further finds that property in the area is largely undeveloped, with some single-family residential on large lots similar in size to the subject property. Proposal will be required to meet lighting and signage requirements, and

WHEREAS, the Board further finds that the site is not currently served by MSD; Health Department review will be required prior to construction plan approval. Remaining public facilities are adequate to serve the site, and

WHEREAS, the Board further finds that relief is requested to accommodate a proposed sidewalk to be constructed to provide access to an existing concrete pad on the northern property line, and

WHEREAS, the Board further finds that fencing will be required around the existing swimming pool, and

WHEREAS, the Board further finds that the planned parking area will require fencing and/or landscape buffering; a plan will be required as part of the construction plan approval process, and

WHEREAS, the Board further finds that a sign plan will be required as part of the construction plan approval process, and

WHEREAS, the Board further finds that (Guideline 1: Community Form) The site for this proposed Conditional Use Permit (CUP) for a private proprietary club is located in the Neighborhood Form District, which is characterized by predominantly residential uses with some commercial activity located in appropriate places where negative impacts can be mitigated and the larger neighborhood can be served. This application complies with this Guideline of the Comprehensive Plan because the proposed private club is intended for a large property with beautiful outdoor amenities and a large remodeled barn that suit themselves well for the kinds of events that are likely to locate here. The property is mostly open space, meaning that activities can be located suitable distances from nearby homes. Proposed Rules and Regulations governing types and numbers of events, hours of operations and so on are being written and will be available at time of the Board of Zoning Adjustment (BOZA) and well

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in advance of public hearing following discussion and negotiation with neighbors, and

WHEREAS, the Board further finds that (Guideline 3: Compatibility) The Intents and applicable Policies 1, 3, 4, 5, 6, 7, 8, 9, 12, 21, 22, 24, and 28 of this Guideline require the location of sensitive land uses in areas where accepted standards of noise, lighting, odors, or similar nuisances are not violated and where visual quality is not significantly diminished. The proposed private club/event facility is today part of a large private home and acreage assemblage that the applicant has invested considerable financial and time resources to upgrade the property to the point where it is stunningly beautiful today. It is because of this that many people have inquired about holding weddings and similar events on this property. And so they began to think so seriously about that they began this process to obtain a CUP for such a facility. All of the negative adverse impact of these applicable Policies can be mitigated by virtue of the development plan submitted herewith and the Rules and Regulations referenced above that the applicant will be negotiating with the neighbors, and

WHEREAS, the Board further finds that (Guidelines 4: Open Space; 5: Natural Areas, Scenic & Historic Resources, and 13: Landscape Character) The Intents and applicable Policies 1, 2, 4, 5, 6, and 7 of Guideline 4 and Policy 1 of Guideline 5 recommend that open spaces and natural areas/features be protected and well maintained, as they are today and will be under this CUP in the future, and

WHEREAS, the Board further finds that (Guidelines 7: Circulation; 8: Transportation Facility Design; and 9: Bicycle & Pedestrian and Transit) The Intents and applicable Policies 1, 2, 9, 10, 11, 12, 14, and 15 of Guideline 7, Policies 2, 3, 5, 6, 9, 10 and 11 of Guideline 8, and Policies 1, 3 and 4 of Guideline 9 all pertain to traffic impacts of the proposed private club which seek assure transportation facilities with adequate capacity, good access and safe internal circulation, plus the provision for the access for bicycles. This CUP application for a private club/event facility comply with all the applicable Intents and Policies of these Guidelines because this is a low traffic-generating use; access must be approved Metro Public Works and Transportation Planning; parking will be adequate to serve those utilizing the event facilities at this private club; and the CUP site plan proposed with this application must receive the "preliminary stamp of approval" from MPW and TP prior to docketing for BOZA review. That will demonstrate compliance with MPW and TP standards established for safe access and good internal circulation, plus frontage or other road improvements necessary for this facility, and

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WHEREAS, the Board further finds that (Guidelines 10: Flooding and Stormwater; and 11: Water Quality) The intents and Applicable Policies 1, 2, 3, 6, 7, 10 and 11 of Guideline 10 and Policies 3, 5, and 9 of Guideline 11 are intended to assure that a development of this kind and construction activities related thereto do not negatively impact any regulated lakes or streams and that stormwater management practices can be implemented so that nearby properties are un-impacted by the increase of impervious surface on site. There is an existing lake on the property that will handle detention requirements in order to assure that post-development rates of peak run-off do not exceed pre-development conditions. Also, MSD's new water quality standards and long-standing soil erosion and sedimentation control standards must be met at time of construction; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1058 does hereby **APPROVE** Conditional Use Permit for Private Proprietary Club in an R-4 zoning district (LDC 4.2.44), noting relief from Item 4A which states "relief is requested to accommodate a proposed sidewalk to be constructed to provide access to an existing concrete pad on the northern property line", based upon the Staff Report, the detailed Statement of Compliance provided by the applicant with all applicable Guidelines on Policies of Cornerstone 2020 Comprehensive Plan, the discussion and the presentation, 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 by and approval of 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 Private Proprietary Club without further review by and approval of the Board.
3. Events on the weekdays shall end by 12:00 a.m.
4. No alcohol past 11:30 p.m.
5. Events on the weekends shall end at 12:00 a.m., with the exception of up to four (4) special events, such as Derby, PGA championship, New Year's Eve, etc.

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6. No outside music past 10:00 p.m.
7. On both weekends and weekdays, no event shall start before 9:00 a.m.
8. Applicant shall fully comply with the Louisville Metro Noise Ordinance.

The vote was as follows:

Yes: Members Fishman, Howard, Turner, and Young

No: Chair Allendorf

Absent: Member Buttorff, and Vice Chair Jarboe

03:03:23 On a motion by Member Fishman, seconded by Member Turner, the following resolution was adopted:

Waiver of sidewalk requirements (LDC 6.2.6):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners because there are none that would utilize a sidewalk along this property frontage that wouldn't connect to any other sidewalks and due to the location of the parking would not be utilized by the venue guests, and

WHEREAS, the Board further finds that the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application, and

WHEREAS, the Board further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because there are no sidewalks along Eastwood Fisherville Road in this area and the sidewalk at the south end would be very close to the Interstate overpass and thus not utilized, nor would the sidewalk to the street, and

WHEREAS, the Board further finds that strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because a sidewalk would be a huge cost and expense and not be used. Further, all persons attending events at

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the facility will park on site as shown on the Plan and will not be walking along Eastwood Fisherville Road or to and from the road; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1058 does hereby **APPROVE** Waiver of sidewalk requirements (LDC 6.2.6), based upon the presentation, the Staff Report and the applicant's general waiver justification.

The vote was as follows:

Yes: Members Fishman, Howard, Turner, and Young

No: Chair Allendorf

Absent: Member Buttorff, and Vice Chair Jarboe

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CHAIRMAN OR COMMISSION DIRECTOR'S REPORT

CASE NUMBER 17MISC1072

Proposed 2018 BOZA Calendar

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:

03:10:15 Brian Mabry presented the proposed 2018 calendar for Public Hearing dates for the Board of Zoning Adjustment with revisions. Mr. Mabry stated September 4, which is a Tuesday, is now proposed as well as September 17, which is a Monday. The Board Members discussed the proposed meeting dates (see recording for detailed presentation).

03:11:18 The Board, by general consensus, **APPROVED** the 2018 Board of Zoning Adjustment Meeting Calendar as revised (revisions being Tuesday, September 4, 2018 and Monday, September 17, 2018).

BOARD OF ZONING ADJUSTMENT MINUTES
November 20, 2017

CHAIRMAN OR COMMISSION DIRECTOR'S REPORT

CASE NUMBER 17MISC1073

Proposed Amendment to BOZA Bylaws Related to Regular Meeting Time

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:

03:11:35 Brian Mabry presented a proposed amendment to the BOZA Bylaws related to the regular meeting time. Mr. Mabry stated this was presented two weeks ago, but there is a rule in the actual Bylaws themselves that say when you're going to change the Bylaws you have to give a minimum of seven days' notice. Mr. Mabry stated we were not quite at seven days as far as when the packet was published to when the meeting was, so we are bringing this up again just to be sure that we're covering the seven day requirement. The Board Members discussed the proposed change (see recording for detailed presentation).

03:13:25 The Board Members, by voice vote, did not pass the Proposed Change to the BOZA Bylaws to change the meeting time.

The vote was as follows:

Yes: Members Howard, Young, and Chair Allendorf

No: Fishman, and Turner

Absent: Member Buttorff, and Vice Chair Jarboe

NOTE: The Board Members, by general consensus, agreed to reconsider this item at the next BOZA meeting on December 4, 2017, to allow the full Board an opportunity to vote.

BOARD OF ZONING ADJUSTMENT MINUTES
November 20, 2017

ADJOURNMENT

03:17:08 Prior to adjournment, Brian Mabry advised the Board Members that this would be his last meeting. Mr. Mabry explained that he has accepted another position.

The meeting adjourned at approximately 11:59 a.m.

Chair

Secretary