

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

**MAY 19, 2008**

**CASE NO. 10994**

**Applicant/Owner:**

Canfield Development, Inc.  
Stephen Canfield  
11800 Brinley Avenue, Ste. 201  
Louisville, Kentucky 40243

**Attorney:**

Deborah Bilitski, Esq.  
Wyatt, Tarrant & Combs  
500 West Jefferson Street, Ste. 2700  
Louisville, Kentucky 40202

**Subject:**

An application for variances from the Land Development Code to allow proposed dwellings to encroach into the required yards.

**Premises affected:**

On properties known as Tax Block 3950, Lots 161-187 and Tax Block 3711, Lot 5 and being in Louisville Metro.

**Appearances for Applicant:**

Deborah Bilitski, Attorney, 500 West Jefferson Street, Ste. 2700, Louisville, Kentucky 40202; who submitted a booklet and PowerPoint presentation into the record.

Mike Jones, 18100 Brinley Court, Louisville, Kentucky 40245.

**Appearances Interested Party:**

James Goetz, 1535 Tyler Park Drive. Louisville, Kentucky 40204.

**Appearances Against Applicant:**

No one.

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the office of Planning and Design Services, located at 444 South Fifth Street, Suite 300, Louisville, Kentucky.

On April 21, 2008, Canfield Development, Inc. filed an application for a variation from the requirements of the Land Development Code to allow proposed dwellings to encroach into the required yards.

**MINUTES OF THE MEETING  
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On May 19, 2008, at a meeting of the Board, a hearing was held on this case. A drawing showing the premises affected and the existing and/or proposed construction was presented to each Board member.

In accordance with the Board Bylaws, the staff report prepared for this case was incorporated into the record. The Board members had received this report in advance of the hearing and it was available to any interested party prior to the public hearing. See Addendum for staff report in full.

The recording of this hearing will be found on the cd of the May 19, 2008 proceedings.

**SUMMARY OF STAFF PRESENTATION:**

9:50:13 Staff case manager, Charlie Weber gave a brief presentation of the case to the Board, which included a PowerPoint presentation. He said this is the last two sections to be developed and the applicant wants to build garden type homes with front porches. He said the revisions to the plan will provide a better social environment.

**SUMMARY OF TESTIMONY OF PROPONENTS:**

9:59:57 Deborah Biltiski, the applicant's attorney, submitted a booklet and her PowerPoint presentation into the record. She said the topography is steep in areas 6 and 7 that they need the variances to do minimal disturbance here. She said they will be bringing the homes closer to the street to accomplish this. She said they want to create a unique character from the rest of the development including porches for more social interaction of the residents. She said the homes will be marketed toward empty nesters. She said they also want to minimize topography disturbances in the open space.

Mike Jones said they didn't anticipate the topography challenges; but said they want to cater to empty nesters. He said they will have different street lights, keep the existing large trees and include front porches in this part of the development. He said this idea is similar to what Norton Commons has done which includes sidewalks and allows for more social interaction. He said the homes will be individually designed with the owners' choosing. He said they want a sense of neighborhood and making a commitment to developing it uniquely.

10:07:28 Deborah Biltiski said they agree to the conditions of approval staff recommended. She said the 15 foot variances will increase the backyard space.

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

**MAY 19, 2008**

**CASE NO. 10994**

She said the variances will not negatively impact the surrounding properties. Member Grisanti asked if they would agree to a condition of approval for the porches and asked what they had in mind for the minimum square footage. Ms. Billitski said there is not a condition of approval for this, but said they will be presenting examples to the prospective owners. She said their goal is to provide variety.

**SUMMARY OF TESTIMONY OF INTERESTED PARTIES:**

10:11:34 James Goetz said he doesn't live in the area, but had some general questions. He asked how the variances would affect the topography. Chair Francis said the homes will be moved closer to the street with the slopes in the rear. She said this will also allow for more greenspace. Mr. Goetz asked who will be installing the sidewalks and how this will be enforced. Chair Francis said the developer will and that they have verbally testified to this. Mr. Goetz asked what repercussions the developer faces, if he doesn't do what he says he will do. Jon Baker, the Board's legal counsel, said they can be cited by Inspections, Permits and Licenses and eventually go to court if not resolved. Mr. Goetz asked if the setbacks are beneficial to the topography. Charlie Weber, staff case manager, interjected and said, yes, and that some of the area is unbuildable because of the steep slopes. Mr. Goetz then asked if this was better for the topography and environment or just to make them more sellable. Chair Francis said the development is being designed for a specific market; and that the Board grants variances because of topography and other reasons.

**SUMMARY OF TESTIMONY OF OPPONENTS:**

No one spoke in opposition.

**REBUTTAL:**

No rebuttal.

**BUSINESS SESSION:**

10:22:02 Member Stewart said the plan makes sense.

10:22:15 After the public hearing and further discussion of the case by the members of the Board in open business session, on a motion by Member Grisanti, seconded by Member Anderson, the following resolution was adopted:

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

**MAY 19, 2008**

**CASE NO. 10994**

**WHEREAS**, the Board finds, from the file of this case, the staff report, and the evidence and testimony submitted at the public hearing to allow the proposed dwellings to encroach into the required front and street side yards; and

**WHEREAS**, the Board finds that in combination with the improved rear yard setback, the front setback variance may enhance public health, safety and welfare by protecting additional open space to the rear of these properties; by encouraging building design that orients residents towards the common streetscape; and by making the front setback a build-to line rather than the conventional setback; and

**WHEREAS**, the Board finds that the variances will not alter the essential character of the general vicinity because the edges of the sections containing the proposed variances, care has been taken to match the front and street side yard setbacks with existing homes same block face; and because these sections are being distinguished as 'The Gardens' section of Beech Spring Farm Development and will be uniquely designed to have a consistent aesthetic character, different from the rest of the development; and because staff has recommended greater emphasis on the front porches in this section of the development to further unify the homes and distinguish them from the other sections in the subdivision; and

**WHEREAS**, the Board finds that the variances will not cause a hazard or a nuisance to the public due to the steep topography and because many of the proposed lots will be graded for greater buildable area; and because these areas should be reviewed and approved by an engineer prior to construction; and because moving the homes closer to the front property lines allows for the preservation of larger natural area along the rear of the lots, which provides immeasurable environmental benefits and also serves to buffer the development from the adjoining residential properties; and because the proposed site design promotes the efficient and economic use of the land and encourages more neighbor-to-neighbor contact, both of which contribute to a sustainable community; and

**WHEREAS**, the Board finds the requested variances will not allow an unreasonable circumvention of the requirements of the zoning regulation because the roads for these sections are already partially constructed; and because the setbacks will allow the new homes to require less earth-moving and grading and provide a greater buffer area to the open space; and because the consequences of these reduced setbacks to the streetscape may even enhance

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OF THE  
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

**MAY 19, 2008**

**CASE NO. 10994**

the previously approved by producing building features and relationships that encourage greater social interaction; and

**WHEREAS**, the Board finds that the requested variances arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone because a significant portion of Sections 6 and 7 of Beech Spring Farm contains fairly steep topography; and because the proposed variance to reduce the front setback to 15 feet in Sections 6 and 7 will enable the applicant to reduce the area of site disturbance, respect the natural contours of the land, preserve more existing vegetation, thus minimizing the overall environmental impact of the development; and

**WHEREAS**, the Board finds that the strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the applicant would be unable to develop these sections in a reasonable and environmentally-responsible manner that avoids unnecessary impacts to slopes and existing vegetation;

**NOW, THEREFORE, BE IT RESOLVED**, that the variances are hereby **APPROVED ON CONDITION**:

1. Lots 161-192 and lots 213-216 shall be required 40-foot rear setbacks in order to preserve an area of steep terrain equal to that being encroached upon with the front yard variance.
2. All 15-foot front and street side yards setbacks granted herein shall be considered build-to lines.

**The variances allow:**

1. The dwellings on lots 161-203 and lots 209-216 to be 15 feet from the front property line.
2. The dwellings on lots 193 and 216 to be 15 feet from the street side property line.

**MINUTES OF THE MEETING  
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**MAY 19, 2008**

**CASE NO. 10994**

**The vote was as follows:**

**YES: Members Francis, Anderson, Jarboe, Grisanti, Allendorf and Stewart.**

**NO: No one.**

**NOT PRESENT FOR THIS CASE AND NOT VOTING: No one.**

**ABSTAINING: No one.**