

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

July 16, 2018

A meeting of the Louisville Metro Board of Zoning Adjustment was held on July 16, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Mike Allendorf, Chair
Rosalind Fishman, Vice Chair
Dwight Young
Richard Buttorff
Lester Turner, Jr.
Kimberly Leanhart

Members Absent:

Lula Howard, Secretary

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Steve Hendrix, Planning & Design Coordinator
Jon Crumbie, Planning & Design Coordinator
Beth Jones, Planner II
Jay Lockett, Planner I
Ross Allen, Planner I
Dante St. Germain, Planner I
Travis Fiechter, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

July 2, 2018 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:02:36 On a motion by Member Turner, seconded by Member Young, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on July 2, 2018.

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Leanhart, Vice Chair Fishman, and Chair Allendorf

Absent: Member Howard

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BUSINESS SESSION

Case Number 18VARIANCE1059

Request: Variance to allow a primary structure to encroach into the required front yard setback
Project Name: Beechspring Farm Boulevard Variance
Location: 7523 Beechspring Farm Boulevard
Owner: Andrew R. Pyles & Lauren Hodges
Applicant: Lynn Ashkettle, Ashkettle Home Builders
Jurisdiction: Louisville Metro
Council District: 16 – Scott Reed
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:

00:03:54 Dante St. Germain presented the case and showed the site plan (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Lynn Ashkettle, 6103 Breeze Hill Road, Crestwood, KY 40014

Summary of testimony of those in favor:

00:06:30 Lynn Ashkettle spoke in favor of the request and explained the reasons for requesting the variance (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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Case Number 18VARIANCE1059

00:07:42 On a motion by Vice Chair Fishman, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, the variance justification, and the builder's explanation, 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 encroachment is relatively small and will not affect the public, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposed encroachment is similar to other structures on the street, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed encroachment will not restrict the public from using the right of way, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the topography of the lot is steep, which was the reasoning for approving the previous variance, 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 because the topography of the lot is unique to most other land in the area, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by requiring the applicant to construct a much smaller home on the lot, 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 the request is extremely minor, 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 18VARIANCE1059

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1059 does hereby **APPROVE** Variance from Land Development Code Table 5.3.1 to allow a structure to encroach into the required front yard setback (**Requirement 15 ft., Request 14.4 ft., Variance 0.6 ft.**).

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Leanhart, Vice Chair Fishman, and Chair Allendorf

Absent: Member Howard

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PUBLIC HEARING

CASE NUMBER 18DEVPLAN1046

Request: Variance to exceed the maximum 25 ft. setback, a sidewalk waiver and a general waiver to allow parking to the front of the proposed structure.

Project Name: Pilot Bulk DEF Facility

Location: 2326 Ralph Ave.

Owner: Pilot Travel Centers LLC

Applicant/Representative: Quincy Curtis – Core States Group

Jurisdiction: City of Shively, KY

Council District: 3– Mary Woolridge

Case Manager: Ross Allen, Planner I

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

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

Agency Testimony:

00:09:26 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:

Jerrold Herron, 5508 Lonas Dr., Knoxville, TN 37909

Summary of testimony of those in favor:

00:15:13 Jerrod Herron spoke in favor of the request and responded to questions from the Board Members. Mr. Herron explained what DEF (Diesel Exhaust Fluid) is. Mr. Herron explained this is not combustible and not hazardous (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

00:18:18 Board Members' deliberation

00:18:57 On a motion by Vice Chair Fishman, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, the presentation, and the variance application and waiver application and justifications, was adopted:

Variance from Shively, KY LDC 5.2.5.C.4.a to allow the proposed 1-story (27 ft. $\frac{3}{4}$ in.) to exceed the 25 ft. maximum front setback at its farthest point by approximately 155 ft. south of the property line along Ralph Ave.:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the applicant has stated that "there will be no known adverse effects to health, safety, or welfare." Many structures along Ralph Ave. within the Traditional Workplace Form District exceed the maximum setback with one exception the Kellogg Plant as located at 2287 Ralph Ave. is approximately 18 feet from the right of way line which is within the maximum setback as allowed by Shively, KY LDC. The occurrence of not being within the maximum setback along this portion of Ralph Ave. is a normal occurrence rather than an exception to the LDC. The subject site is gated which may be addressed with the City of Shively, KY Fire Dept., and

WHEREAS, the Board further finds that the applicant has stated, "The area is industrial and directly across the street is an industrial building that is setback approximately 80 feet from the street with parking in front of it." The applicant is correct in that directly north of the subject site across Ralph Ave. Continuum Transportation, a trucking company, has an existing structure which sets back approximately 62 ft. from the right of way line and does have employee/visitor parking along the frontage within the 25 ft. maximum setback and being on an EZ-1 zoned parcel within the Traditional Workplace Form District. The applicant's request to exceed the maximum setback is not out of character within the general vicinity, and

WHEREAS, the Board further finds that the applicant states, "The variance would not cause any known hazards or nuisances to the public." The entrance to the site is located in the northwestern corner of the parcel and provides a depth of

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approximately 96.4 ft. allowing for any semi-tractor trailers the ability to traverse across the un-signalized rail road tracks and enter the main gated entrance from an eastern or western travelling direction along Ralph Ave., and

WHEREAS, the Board further finds that the applicant states “the building location along the existing rail line is essential to the operation of the facility.” Staff finds that the variance to exceed the maximum setback allows the proposal to utilize the existing infrastructure on site, namely the railroad tracks which are parallel along the rear of the property, and

WHEREAS, the Board further finds that the applicant states “The building location along the existing rail line is essential to the operation of the facility. The operation requires offloading liquids from the rail line directly into the building and then offloading into tanker trucks. This site was chosen for its rail line access”, 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 and create an unnecessary hardship on the applicant because “without the building located along the rail line, it would not be serviceable for the intended use”, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since “the applicant needs immediate access to the rail line, but does not need a building that would be large enough to extend to the required setback requirements.” The maximum setback would require that the applicant place the proposed building closer to Ralph Ave. and restrict the ability of the applicant to use the existing dock as found along the rear of the parcel being closer to the rail lines; and

Waiver from Shively, KY LDC 5.8.1.B/5.9.2.A.1.b.i to not provide a sidewalk along the Ralph Ave. frontage for an approximate distance of 566 ft. and to not provide a clearly defined safe pedestrian access from the Ralph Ave. right-of-way to the non-residential building entrances:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as the applicant states “There is not another sidewalk within half a mile of the property, and this property is located within a predominantly industrial area with little to no foot traffic. This does not violate the Comprehensive plan or LDC in comparison to adjacent and other surrounding properties”, and

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WHEREAS, the Board further finds that Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. The applicant states “there is not another sidewalk within half a mile of the property and this property is located within a predominantly industrial area with little to no foot traffic.” The subject site is located 1,700 ft. west from Dixie Highway along Ralph Ave. Moving west from Dixie Hwy. there are R-7 zoned parcels with multi-family dwellings bounded by M-1 zoned parcels to the west as adjacent to the EZ-1 zoned parcels. The R-7 zoned parcels in particular may be accessed from Dixie Hwy via Clinton Place or Gillette Ave leading to Ramsey Ave. but Ralph Ave. is the most direct route to the multi-family dwellings but is approximately 600 ft. farther east on Ralph Ave. Last, the site is enclosed with a six ft. – eight ft. fence restricting the access to the proposed structure from the right of way and as proposed has a large vehicular maneuvering area between the right of way and the proposed structure, and

WHEREAS, the Board further finds that the applicant states “there will be no impact to adjacent property owners.” The subject site is bounded on the north by EZ-1 zoned parcels used by Continuum Transportation for trucking transportation/logistics and the Kellogg Company, directly to the east by Mr. Roof Louisville (sharing the same enclosed fence as the subject site) and to the south by rail road tracks. If the applicant were required to provide a sidewalk then a dedication of right of way would need to be dedicated along with a reduction of approximately five ft. of the existing 13 ft. green verge along the subject site frontage reducing the vehicular use area landscaping buffer area (VUA LBA) to approximately 8 ft., and

WHEREAS, the Board further finds that the applicant has stated in the justification “without the building located along the rail line, it would not be serviceable for the intended use.” A vast majority of the site is existing conditions with the exception of the proposed DEF Storage Facility found along the rear parcel line along the railroad tracks. If the applicant were required to provide a sidewalk then a dedication of right of way would need to be dedicated along with a reduction of approximately five ft. of the existing 13 ft. green verge along the subject site frontage reducing the vehicular use area landscaping buffer area (VUA LBA) to approximately eight ft. Additionally, the closest residential, R-7 multi-family dwellings, are approximately 588 ft. east (towards Dixie Hwy.) of the

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subject site along Ralph Ave. with R-5 residentially zoned parcels being to the west of the subject site by approximately 1,228 ft.; and

Waiver from Shively, KY LDC 5.5.1.3.a to allow the parking/maneuvering area to be within the front setback and located closer to the right-of-way than the principal structure:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the applicant states “there will be no adverse effects to adjacent property owners”, and

WHEREAS, the Board further finds that Guideline 3, Policy 1 states to ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. The subject site is similar in character to the surrounding structures in the general vicinity having parking/maneuvering areas to the front of the structures. Guideline 3, Policy 23 states that setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines. The subject site in this instance is a triangular lot with existing infrastructure on the site which the applicant intends to use in the proposal. The proposed building height, 27 ft. $\frac{3}{4}$ in., is less than the permissible height, 45 ft., as allowed by the Traditional Workplace form district. Therefore, the requested waiver will not violate specific guidelines and policies of Cornerstone 2020. The applicant has stated “there will be no known violations to the comprehensive plan”, and

WHEREAS, the Board further finds that the applicant states “since the building is required to be adjacent to the rail line the loading docks (trucks) must be located in the front of the building. Trucks will park along the front of the building and use an exterior pipe connection to load or unload fluids. The overhead doors are not used for regular loading or unloading of supplies but only occasionally and for maintenance.” Staff finds that as a result of the lot shape, triangular, and the existing docks as adjacent to the rail line and to be re- used in the proposal results in the building being setback farther than would be allowed in the form district and/or zoning type. However, the general vicinity other existing structures have setbacks that exceed the maximum allowed and parking/maneuvering to the front of the existing structures as found in the general vicinity, and

WHEREAS, the Board further finds that the applicant states, “Without the building located along the rail line it would not be serviceable for the intended use.” The applicant has stated in many instances of the justification that the

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access to the rail lines is paramount for the intended DEF Storage Facility. The Rail lines are found along the rear of the lot/parcel and result in existing infrastructure on the subject site being re-used/repurposed for the receipt of DEF and storage/distribution; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18DEVPLAN1046 does hereby **APPROVE** Variance from Shively, KY LDC 5.2.5.C.4.a to allow the proposed 1-story (27 ft. $\frac{3}{4}$ in.) to exceed the 25 ft. maximum front setback at its farthest point by approximately 155 ft. south of the property line along Ralph Ave; the Board further **RECOMMENDS FOR APPROVAL** to the City of Shively, KY Waiver from Shively, KY LDC 5.8.1.B/5.9.2.A.1.b.i to not provide a sidewalk along the Ralph Ave. frontage for an approximate distance of 566 ft. and to not provide a clearly defined safe pedestrian access from the Ralph Ave. right-of-way to the non-residential building entrances, and Waiver from Shively, KY LDC 5.5.1.3.a to allow the parking/maneuvering area to be within the front setback and located closer to the right-of-way than the principal structure.

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Leanhart, Vice Chair Fishman, and Chair Allendorf

Absent: Member Howard

00:23:47 On a motion by Vice Chair Fishman, seconded by Member Buttorff, the following resolution, based upon the presentation, the Standard of Review and Staff Analysis, and discussion, was adopted:

Category 2B Development Plan:

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; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18DEVPLAN1046 does hereby **RECOMMEND FOR APPROVAL** to the City of Shively, KY the Category 2B Development Plan.

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The vote was as follows:

**Yes: Members Young, Buttorff, Turner, Leanhart, Vice Chair Fishman, and
Chair Allendorf**

Absent: Member Howard

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CASE NUMBER 18DEVPLAN1090

Request: Variance to exceed max. setback from S. 15th St.,
variance to exceed the maximum height as allowed in
the TWFD for an EZ-1 zoned parcel, and a general
waiver

Project Name: BJK Industries Inc.
Location: 945 South 15th Street
Owner: James Schandle – Epsilon Realty Co. L.P.
Applicant: Joe Wolfe – Koetter Construction
Representative: John Campbell – Heritage Engineering LLC.
Jurisdiction: Louisville Metro
Council District: 6– David James
Case Manager: Ross Allen, Planner I

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

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

Agency Testimony:

00:25:12 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:

John Campbell, 642 S. 4th Street, Louisville, KY 40202
Jim Schandle, 945 S. 15th St., Louisville, KY 40210 (signed in but did not speak)
Joe Wolfe, 7393 Pete Andres Rd., Floyds Knobs, IN 47119 (signed in but did not speak)

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Summary of testimony of those in favor:

00:35:23 John Campbell presented the case and showed a Powerpoint presentation. Mr. Campbell responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

00:43:41 Board Members' deliberation

00:44:21 On a motion by Member Turner, seconded by Member Young, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Variance from LDC 5.2.5.C.3.a to allow the proposed expansion/addition to exceed the 25 ft. maximum setback by approximately 125 ft. for a total setback of approximately 150 ft. from the property line as found along South 15th Street:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the applicant has stated, "the requested variance is compatible with lot the setback and building height of the previous building expansion." Previous case no. 2-20-15 indicates that the setback at that time does have a similar if not exact same setback for the current proposal. The applicant is adding/expanding the structure towards Garland Ave. having less than 60% of the street wall maintained along Garland Ave. and South 15th Street. Additionally, the California Neighborhood Plan indicates that the existing industrial uses in the Station Park Area/sub-area are to remain industrial with proper mitigation of adverse impacts as found adjacent to residential uses, namely R-7 zoning as found west of South 15th Street which is currently vacant. The setback as requested is not out of character and adheres more to the requirements of the Form District standards, construction at a zero or maximum 25 foot setback, and

WHEREAS, the Board further finds that The applicant stated in their justification "the area is an existing industrial area and the proposed building addition will continue the established setback and building height of the existing structure on site." The applicant is adding/expanding the structure towards Garland Ave.

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having less than 60% of the street wall maintained along Garland Ave. and South 15th Street. Additionally, the California Neighborhood Plan indicates that the existing industrial uses in the Station Park Area/sub- area are to remain industrial with proper mitigation of adverse impacts as found adjacent to residential uses, namely R-7 zoning as found west of South 15th Street which is currently vacant. The setback as requested is not out of character and adheres more to the requirements of the Form District standards, construction at a zero or maximum 25 foot setback, and

WHEREAS, the Board further finds that the applicant stated in their justification “the public will not be impacted by the proposed building addition as it is located along a portion of Garland Ave. which already contains industrial uses and buildings of the same height on site.” The applicant is adding/expanding the structure towards Garland Ave. having less than 60% of the street wall maintained along Garland Ave. and South 15th Street. Additionally, the California Neighborhood Plan indicates that the existing industrial uses in the Station Park Area/sub-area are to remain industrial with proper mitigation of adverse impacts as found adjacent to residential uses, namely R-7 zoning as found west of South 15th Street which is currently vacant. The setback as requested is not out of character and adheres more to the requirements of the Form District standards, construction at a zero or maximum 25 foot setback, and

WHEREAS, the Board further finds that the applicant stated in their justification “the site is currently designed with a structure shorter in height directly adjacent to 15th Street with the taller structure located toward the rear of the property along the existing railroad tracks and rail yard.” The applicant is not circumventing regulations of the Land Development Code and is proposing to construct the addition/expansion to conform more with the requirements of the Traditional Workplace Form District by building closer towards Garland Ave. The setback as found along South 15th Street will be maintained as to the setback shown on the previously approved development plan, case no. 2-20-15. Existing parking is onsite and screened with existing landscaping along South 15th Street, and

WHEREAS, the Board further finds that the applicant states in their justification, “the special circumstances for this site are due to the original industrial building placement and recent success of the company to continually expand at this location.” The subject site is and has been industrial since 1982 as shown in the California Neighborhood Plan. The Neighborhood Plan indicates that the site is within an industrial area defined as Station Park and discussion of the expansion of such industries is recommended and encouraged. The close proximity of the industrial corridor, located East of South 15th Street, to residentially zoned

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parcels and St. Stephen Baptist Church, located catty corner of the subject site, may be mitigated by coordination between the California Neighborhood Task Force and Business leaders using buffering and landscaping to mitigate potential impacts. The applicant does have landscaping in place but the Traditional Workplace Form District encourages and contradicts the recommendations as requested in the Neighborhood Plan, and

WHEREAS, the Board further finds that the applicant states in their justification, “strict application of the requirements of the Land Development Code would limit the company’s ability to grow at the current location”, and

WHEREAS, the Board further finds that the applicant states in their justification, “Because the applicants continued growth and success in the market place could not have been predicted. The company did not foresee a need for a master plan on site expansion and was unable to avoid the needed variances”; and

Variance from LDC 5.2.5.C.3.d to allow the proposed expansion/addition to exceed the 45 ft. maximum height allowed by approximately 30 ft. within the Form District Edge/Transition Zone for a total height of 75 ft.:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the applicant has stated, “the requested variance is compatible with lot the setback and building height of the previous building expansion.” The portion of the proposed structure with a 75 ft. height is located on the northeastern portion of the subject site and setback from the South 15th Street property line by approximately 265 feet. The existing structure has portions which are 65 ft. in height along the eastern portion of the existing building. Additionally, existing silos on the subject site are indicated on the plan to be approximately 84 ft. in height. The proposed and existing structures on site exceed the allowable height as allowed by the Form District Standards but are also in character with what is on the subject site. The heights are exceeded within the industrial area south and further east in close proximity to the existing rail corridor, and

WHEREAS, the Board further finds that the applicant stated in their justification “the area is an existing industrial area and the proposed building addition will continue the established setback and building height of the existing structure on site.” The portion of the proposed structure with a 75 ft. height is located on the northeastern portion of the subject site and setback from the South 15th Street property line by approximately 265 feet. The existing structure has portions which are 65 ft. in height along the eastern portion of the existing building. Additionally, existing silos on the subject site are indicated on the plan to be

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approximately 84 ft. in height. The proposed and existing structures on site exceed the allowable height as allowed by the Form District Standards but are also in character with what is on the subject site. The heights are exceeded within the industrial area south and further east in close proximity to the existing rail corridor, and

WHEREAS, the Board further finds that the applicant stated in their justification “the public will not be impacted by the proposed building addition as it is located along a portion of Garland Ave. which already contains industrial uses and buildings of the same height on site.” The portion of the proposed structure with a 75 ft. height is located on the northeastern portion of the subject site and setback from the South 15th Street property line by approximately 265 feet. The existing structure has portions which are 65 ft. in height along the eastern portion of the existing building. Additionally, existing silos on the subject site are indicated on the plan to be approximately 84 ft. in height. The proposed and existing structures on site exceed the allowable height as allowed by the Form District Standards but are also in character with what is on the subject site. The heights are exceeded within the industrial area south and further east in close proximity to the existing rail corridor, and

WHEREAS, the Board further finds that the applicant stated in their justification “the site is currently designed with a structure shorter in height directly adjacent to 15th Street with the taller structure located toward the rear of the property along the existing railroad tracks and rail yard.” The portion of the proposed structure with a 75 ft. height is located on the northeastern portion of the subject site and setback from the South 15th Street property line by approximately 265 feet. The existing structure has portions which are 65 ft. in height along the eastern portion of the existing building. Additionally, existing silos on the subject site are indicated on the plan to be approximately 84 ft. in height. The proposed and existing structures on site exceed the allowable height as allowed by the Form District Standards but are also in character with what is on the subject site. The heights are exceeded within the industrial area south and further east in close proximity to the existing rail corridor, and

WHEREAS, the Board further finds that the applicant states in their justification, “the special circumstances for this site are due to the original industrial building placement and recent success of the company to continually expand at this location.” The portion of the proposed structure with a 75 ft. height is located on the northeastern portion of the subject site and setback from the South 15th Street property line by approximately 265 feet. The existing structure has portions which are 65 ft. in height along the eastern portion of the existing building. Additionally, existing silos on the subject site are indicated on the plan

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to be approximately 84 ft. in height. The proposed and existing structures on site exceed the allowable height as allowed by the Form District Standards but are also in character with what is on the subject site. The heights are exceeded within the industrial area south and further east in close proximity to the existing rail corridor, and

WHEREAS, the Board further finds that the applicant states in their justification, “strict application of the requirements of the Land Development Code would limit the company’s ability to grow at the current location.” The portion of the proposed structure with a 75 ft. height is located on the northeastern portion of the subject site and setback from the South 15th Street property line by approximately 265 feet. The existing structure has portions which are 65 ft. in height along the eastern portion of the existing building. Additionally, existing silos on the subject site are indicated on the plan to be approximately 84 ft. in height. The proposed and existing structures on site exceed the allowable height as allowed by the Form District Standards but are also in character with what is on the subject site. The heights are exceeded within the industrial area south and further east in close proximity to the existing rail corridor, and

WHEREAS, the Board further finds that the applicant states in their justification, “Because the applicants continued growth and success in the market place could not have been predicted. The company did not foresee a need for a master plan on site expansion and was unable to avoid the needed variances.” The portion of the proposed structure with a 75 ft. height is located on the northeastern portion of the subject site and setback from the South 15th Street property line by approximately 265 feet. The existing structure has portions which are 65 ft. in height along the eastern portion of the existing building. Additionally, existing silos on the subject site are indicated on the plan to be approximately 84 ft. in height. The proposed and existing structures on site exceed the allowable height as allowed by the Form District Standards but are also in character with what is on the subject site. The heights are exceeded within the industrial area south and further east in close proximity to the existing rail corridor; and

General Waiver from LDC 10.2.10 to not provide the 10 ft. continuous VUA LBA along a 42 ft. long section of Garland Ave. and a 41 ft. long section along South 15th Street to allow truck maneuvering:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the applicant states in their justification, “the requested waiver will not adversely affect adjacent property owners because granting of the waiver will allow the proposed semi-truck maneuvering to occur onsite adjacent to the public right of

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way. The property is in the Traditional Workplace Form District which typically has loading facilities adjacent to the roadways and the property doesn't have any adjacent residences", and

WHEREAS, the Board further finds that The applicant has stated in their justification that "the waiver requested will not violate the Comprehensive Plan and it will not alter the character of the general vicinity as the maneuvering area will be limited in size and area to minimize noncompliance with LDC. Landscape plantings as required may be provided on site adjacent to the encroachment area to ensure landscape plantings are still being provided onsite." The waiver will not violate Guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. The applicant has landscaping in place along a 277 ft. portion of a total 419 ft. length frontage along South 15th Street and along the frontage on Garland Ave. The increase in the VUA will occur with the expansion of the northwestern ingress/egress being widened to 50 ft. resulting in the loss of three existing type A trees and approximately 11 existing shrubs along the Garland Ave. frontage. The expansion of the VUA along the South 15th frontage will result in the loss of approximately two type A trees and four shrubs with an estimated loss the total of 3,600 sq. ft. of tree canopy (square footage based upon mature crown being 720 sq. ft. per Type A tree). The applicant if willing could off-set the removed landscaping by placing plantings along the South 15th Street Frontage along the 14 ft. wide green verge leading south towards West Kentucky Street. The waiver will not violate Guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way. Although the applicant intends to remove existing landscaping the screening for the VUA would not be present for an approximate 41 ft. of frontage along South 15th Street and for a 42 ft. frontage along Garland Ave, and

WHEREAS, the Board further finds that the applicant states, "granting the waiver is the minimum necessary to afford relief to the applicant as the proposed building expansion and maneuvering area will allow BJK Industries to grow within the community and not be forced to relocate." Adjacent sites as found to the north, south, and east are zoned allowing for future uses as permitted in EZ-1 and has been industrial. The California Neighborhood Plan indicates that the Station Park Area is in fact zoned for industrial in an effort to limit the encroachment of industrial into residential core, beginning on the western side of South 15th Street. As stated in the Neighborhood Plan landscaping and buffering

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are recommended as mitigations to and transitions between industrial and residential uses. The applicant may choose to offset the removal of landscaping as a result of the expanded vehicular maneuvering area to plant further down along South 15th Street within the parcel, and WHEREAS, the Board further finds that the applicant states, "The development as proposed with the requested waiver will allow for the semi-truck maneuvering area to occur onsite while still providing the landscape plantings adjacent to the maneuvering area. In addition, strict application of the provisions would limit the ability to grow the business at this location while maintaining adequate access to the loading docks." Staff would recommend that the applicant offset the removed plantings resulting from the expansion to a 14 ft. verge between the right of way and the existing structure as parallel to South 15th Street and interior to the applicant property; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18DEVPLAN1090 does hereby **APPROVE** Variance from LDC 5.2.5.C.3.a to allow the proposed expansion/addition to exceed the 25 ft. maximum setback by approximately 125 ft. for a total setback of approximately 150 ft. from the property line as found along South 15th Street (**Requirement 25 ft., Request 150 ft., Variance 125 ft.**), Variance from LDC 5.2.5.C.3.d to allow the proposed expansion/addition to exceed the 45 ft. maximum height allowed by approximately 30 ft. within the Form District Edge/Transition Zone for a total height of 75 ft. (**Requirement 45 ft., Request 75 ft., Variance 30 ft.**), and General Waiver from LDC 10.2.10 to not provide the 10 ft. continuous VUA LBA along a 42 ft. long section of Garland Ave. and a 41 ft. long section along South 15th Street to allow truck maneuvering.

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Leanhart, Vice Chair Fishman, and Chair Allendorf

Absent: Member Howard

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CASE NUMBER 18VARIANCE1024

Request: Variances to allow private yard areas to be less than the required 20% of the area of the lots
Project Name: Eastern Parkway Garages
Location: 2020 & 2022 Eastern Parkway
Owner: GKG Investments LLC
Representative: David Greenburg
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
Case Manager: Dante St. Germain, Planner I

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

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

Agency Testimony:

00:47:24 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:

Cliff Ashburner, 101 S. 5th Street, Suite 2500, Louisville, KY 40202

Summary of testimony of those in favor:

00:51:54 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).

The following spoke in opposition of the request:

No one spoke.

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1024

00:58:49 Board Members' deliberation

00:59:24 On a motion by Member Young, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, the variance justification statement and the testimony heard today, was adopted:

Variance from Land Development Code Section 5.4.1.D.3 to allow a private yard area to be less than the required 20% of the area of the lot (2020 Eastern Parkway):

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 reduction in private yard area is relatively small, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as reduced private yard areas are common in the immediate vicinity, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the reduction in private yard area is relatively small and is unlikely to cause a hazard or nuisance, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as rear garages are common in the area, and

WHEREAS, the Board further finds that the requested variance do not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the lot is regular in shape and similar in size to other lots in the vicinity, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by preventing the construction of garages on the subject site, 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

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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 18VARIANCE1024 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.3 to allow a private yard area to be less than the required 20% of the area of the lot (**Requirement 20% [1,176 sf], Request 16.19% [952.14 sf], Variance 3.81% [223.86 sf]**).

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Leanhart, Vice Chair Fishman and Chair Allendorf

Absent: Member Howard

NOTE: This motion was revoked to allow a correction/clarification to the motion (see Time Stamp 01:02:54).

01:00:25 On a motion by Member Young, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, the variance justification statement and the testimony heard today, was adopted:

Variance from Land Development Code Section 5.4.1.D.3 to allow a private yard area to be less than the required 20% of the area of the lot (2022 Eastern Parkway, Tract 1):

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 reduction in private yard area is relatively small, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as reduced private yard areas are common in the immediate vicinity, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the reduction in private yard area is relatively small and is unlikely to cause a hazard or nuisance, 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 rear garages are common in the area, and

WHEREAS, the Board further finds that the requested variance do not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the lot is regular in shape and similar in size to other lots in the vicinity, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by preventing the construction of garages on the subject site, 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 18VARIANCE1024 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.3 to allow a private yard area to be less than the required 20% of the area of the lot (**Requirement 20% [1,176 sf], Request 16.19% [952.14 sf], Variance 3.81% [223.86 sf]**).

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Leanhart, Vice Chair Fishman and Chair Allendorf

Absent: Member Howard

01:02:54 A motion was made by Member Young, seconded by Member Turner, in Case Number 18VARIANCE1024 to **REVOKE** the original motion (**Time Stamp 00:59:24**) to allow a correction to the Tract Number and Requirement/Request/Variance Numbers regarding 2020 Eastern Parkway.

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The vote was as follows:

Yes: Members Young, Buttorff, Turner, Leanhart, Vice Chair Fishman and Chair Allendorf

Absent: Member Howard

01:03:51 On a motion by Member Young, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, the variance justification statement and the testimony heard today, was adopted:

Variance from Land Development Code Section 5.4.1.D.3 to allow a private yard area to be less than the required 20% of the area of the lot (2020 Eastern Parkway, Tract 2):

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 reduction in private yard area is relatively small, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as reduced private yard areas are common in the immediate vicinity, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the reduction in private yard area is relatively small and is unlikely to cause a hazard or nuisance, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as rear garages are common in the area, and

WHEREAS, the Board further finds that the requested variance do not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the lot is regular in shape and similar in size to other lots in the vicinity, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by preventing the construction of garages on the subject site, 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 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 18VARIANCE1024 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.3 to allow a private yard area to be less than the required 20% of the area of the lot (**Requirement 20% [1,176 sf], Request 15.56% [914.76 sf], Variance 4.44% [261.24 sf]**).

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Leanhart, Vice Chair Fishman and Chair Allendorf

Absent: Member Howard

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PUBLIC HEARING

18VARIANCE1052

Request: Variance to allow a structure to encroach into the required side yard setback
Project Name: Brookfield Avenue Garage
Location: 4008 Brookfield Avenue
Owner: Jean Paul & Kirsten Milly Montreuil
Applicant: Jean Paul Montreuil
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:

01:05:00 Dante St. Germain presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jean-Paul Montreuil, 4008 Brookfield Ave., Louisville, KY 40207

Summary of testimony of those in favor:

01:07:22 Jean-Paul Montreuil 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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PUBLIC HEARING

18VARIANCE1052

01:08:25 Board Members' deliberation

01:08:43 On a motion by Member Young, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony heard today, and the variance justification statement, 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 garage is not proposed to change, and is relatively small, 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 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 setback of the garage 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 current setback is an existing condition which 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 the garage currently exists with the proposed 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 an existing garage in order to construct an addition which is otherwise permissible, 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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PUBLIC HEARING

18VARIANCE1052

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1052 does hereby **APPROVE** Variance from City of St. Matthews Development Code Section 4.6.C.2.b to allow a structure to encroach into the required side yard setback (**Requirement 5 ft., Request 4.5 ft., Variance 0.5 ft.**).

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Leanhart, Vice Chair Fishman, and Chair Allendorf

Absent: Member Howard

01:09:41 Meeting was recessed.

01:09:48 Meeting was reconvened.

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PUBLIC HEARING

18VARIANCE1054

Request: Variance to allow a structure to encroach into the required side yard setback
Project Name: Mulberry Street Addition
Location: 1029 Mulberry Street
Owner: Tandee Ogburn
Applicant: John Offutt
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:

01:10:18 Dante St. Germain presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Tandee Ogburn, 2093 Sherwood Avenue, Louisville, KY 40205

Summary of testimony of those in favor:

01:12:48 Tandee Ogburn 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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PUBLIC HEARING

18VARIANCE1054

01:14:59 Board Members' deliberation

01:15:15 On a motion by Member Turner, seconded by Member Young, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony heard today, and the variance justification statement, 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 new construction is proposed to follow the line of the wall of the existing principal structure, 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 reduced side yard setbacks are common in the neighborhood, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the existing structure encroaches into the side yard setback, which has caused no known hazard or nuisance. Additionally, the new construction will be required to comply with all building codes, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the addition is proposed to follow the existing line of the wall, 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 because reduced side yard setbacks are common in the general vicinity, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by requiring the applicant to construct an addition which is offset from the existing structure, leading to a less useable space, 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

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18VARIANCE1054

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 18VARIANCE1054 does hereby **APPROVE** Variance from Land Development Code Section 5.1.10.F to allow a structure to encroach into the required side yard setback (**Requirement 2.5 ft., Request 0.219 ft., Variance 2.281 ft.**).

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Leanhart, Vice Chair Fishman, and Chair Allendorf

Absent: Member Howard

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PUBLIC HEARING

18CUP1032

Request: Conditional Use Permit to allow outdoor alcohol sales in the C-1 zoning district
Project Name: 4 Seasons Restaurant
Location: 8402 Hudson Lane
Owner: Dimit LLC
Representative: Elka Todorova
Jurisdiction: Louisville Metro
Council District: 22 – Robin Engel
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:

01:16:59 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:

Elka Todorova, 8402 Hudson Lane, Louisville, KY 40291

Summary of testimony of those in favor:

01:21:11 Elka Todorova 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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01:24:20 Board Members' deliberation

01:24:53 On a motion by Vice Chair Fishman, seconded by Member Buttorff, the following resolution, based upon the presentation, the Standard of Review and Staff Analysis, and the discussion, was adopted:

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

WHEREAS, the Board further finds that the proposal is compatible with surrounding development. The proposed outdoor alcohol sales will take place approximately 60 feet from the nearest residential property and on the opposite side of the restaurant structure, 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:

Outdoor alcohol sales and consumption and/or indoor live entertainment for a restaurant may be permitted in the C-1 zoning district upon the granting of conditional use permit and compliance with the listed requirements:

- A. All outdoor areas for the sale and consumption of alcohol must have designated boundaries. **The proposal complies with this requirement.**
- B. Outdoor dining areas within the public right-of-way must receive approval from the agency responsible for transportation engineering and shall be designed in accordance with agency standards. **This provision does not apply.**
- C. Outdoor dining areas adjacent to the public right-of-way shall contain a physical barrier that is at least three feet in height. The barrier should be designed to permit existing legal access from building to the adjacent public right-of-way. **This provision does not apply.**
- D. Outdoor dining areas that include the sale and consumption of alcohol within 50 feet of a residentially zoned or used property shall provide a six foot continuous screen as part of the designated boundary for the areas of

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the outdoor area within 50 feet of residentially used or zoned property. The continuous screen shall be in conformance with the Chapter 10, Part 4 (Implementation Standards). **This provision does not apply.**

E. This conditional use permit shall be limited to restaurant uses in the C-1 that hold the following types of ABC licenses:

1. Restaurant liquor and wine license by the drink for 100 plus seats
2. Restaurant wine license by the drink for restaurants with seating for 100 and receives at least 70 percent gross receipts from food sales

The subject property has a NQ2 Retail Drink full restaurant ABC license. ABC no longer issues licenses by the number of seats.

F. The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 1 A.M.

G. The entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99). **This provision does not apply.**

H. The Board may require additional and more restrictive requirements than those listed above based on the conditions of the specific location and the characteristics of the specific restaurant; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1032 does hereby **APPROVE** Conditional Use Permit to allow outdoor alcohol sales in the C-1 Commercial zoning district, **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 outdoor alcohol sales and consumption without further review and approval by the Board.

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The vote was as follows:

**Yes: Members Young, Buttorff, Turner, Leanhart, Vice Chair Fishman, and
Chair Allendorf**

Absent: Member Howard

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PUBLIC HEARING

18CUP1049

Request:	Conditional Use Permit for a Driving Range with a variance for netting height
Project Name:	Golf Entertainment
Location:	3050 Terra Crossing Blvd
Owner:	JDG 1849, LLC
Applicant:	JDG 1849, LLC
Representative:	Bardenwerper, Talbott & Roberts
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton
Case Manager:	Jay Lockett, Planner I

NOTE: This case was heard out of order, after Item #12 on the Agenda.

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

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

Agency Testimony:

01:42:45 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).

01:52:16 Chair Allendorf swore in all parties interested in speaking in regard to this case (supporting and opposing).

The following spoke in favor of the request:

Bill Bardenwerper, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223
Diane Zimmerman, 12803 High Meadows Pike, Prospect, KY 40059
Kent Gootee, 5151 Jefferson Blvd., Louisville, KY 40219
John Pacyga, 320 Whittington Pkwy., Suite 304, Louisville, KY 40222

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18CUP1049

Summary of testimony of those in favor:

01:52:44 Bill Bardenwerper spoke in favor of the request and showed a Powerpoint presentation. Mr. Bardenwerper responded to questions from the Board Members (see recording for detailed presentation).

02:12:47 Diane Zimmerman spoke in favor of the request in regard to the traffic study (see recording for detailed presentation).

02:14:19 Kent Gootee spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:17:00 Mr. Bardenwerper spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:23:41 John Pacyga spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:26:23 Mr. Bardenwerper responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

Hank Graddy, 137 N. Main Street, Versailles, KY 40383

Adam Kirk, 137 McClelland Springs Dr., Georgetown, KY 40324

Sallie Green, 2321 Arnold Palmer, Louisville, KY 40245

Helene Tracey, 3700 Woodmont Park Lane, Louisville, KY 40245

Denis Beiter, 14811 Hedgeville Way, Louisville, KY 40245

Summary of testimony of those in opposition:

02:32:51 Hank Graddy spoke in opposition of the request and showed a Powerpoint presentation. Mr. Graddy submitted a petition in opposition. Mr. Graddy responded to questions from the Board Members (see recording for detailed presentation).

02:56:36 Adam Kirk spoke in opposition of the request in regard to the traffic study and showed a Powerpoint presentation. Mr. Kirk responded to questions from the Board Members (see recording for detailed presentation).

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03:05:12 Mr. Graddy spoke in opposition and responded to questions from the Board Members (see recording for detailed presentation).

03:13:00 Deanna Schiavone and William Carper were called to speak but were no longer present (see recording for detailed presentation).

03:13:52 Sallie Green spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

03:15:46 Helene Tracey spoke in opposition of the request (see recording for detailed presentation).

03:18:13 Linda Lortz, John O'Mahoney, and Eric Lortz were called to speak but were no longer present (see recording for detailed presentation).

03:19:15 Denis Beiter spoke in opposition of the request (see recording for detailed presentation).

REBUTTAL:

03:23:12 Bill Bardenwerper spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

03:52:41 Board Members' deliberation

04:09:13 On a motion by Member Young, seconded by Member Buttorff, the following resolution, based upon the applicant's testimony, and the Standard of Review and Staff Analysis, was adopted:

Conditional Use Permit to allow a driving range in the C-2 zoning district with relief from the following:

4.2.58A to allow a driving range structure to be closer than 30 feet to a property line.

4.2.58.D to allow golf balls driving direction to be towards residential development:

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18CUP1049

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with applicable policies of the Comprehensive Plan, and

WHEREAS, the Board further finds that the proposal is compatible with the existing and proposed land uses in the surrounding areas, and

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities, and

WHEREAS, the Board further finds that:

Golf Driving Ranges and Miniature Golf Courses may be allowed in the C-2, C-M, M-1, M-2, M-3, and EZ-1 Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. All buildings and structures shall be at least 30 feet from any property line. **The applicant is requesting relief from this requirement. While most of the proposed facility respects this requirement, there are two separate points where the facility is proposed within this 30 foot setback due to the geometry of the site**
- B. Protection of Adjacent Properties - Fences, plantings, or sufficient area shall be provided to insure the safety and protection of persons on all adjacent land. Any netting used for the protection of adjacent properties shall observe yard and height requirements of the district in which it is located. **The applicant is proposing netting to protect surrounding properties and roadways. A variance has been requested to allow the netting height to exceed the maximum height requirements of the zoning district.**
- C. Signs - Except in districts where signs are allowed, one non-flashing sign, not to exceed 60 square feet in area and not to exceed 10 feet in height, may be provided at the major entrance. **All signs will be in compliance with the Land Development Code.**
- D. Driving Directions - All golf ball driving directions shall be away from any street, highway or residential area. **The applicant is requesting relief from this requirement, as the driving direction is proposed to be in the direction of existing multifamily developments. The site is surrounded on all sides by either a highway, multifamily residential, or a roadway;**
now, therefore be it

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RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1049 does hereby **APPROVE** Conditional Use Permit to allow a driving range in the C-2 zoning district with relief from Items A and D, 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 as a driving range without further review and approval by the Board.

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Leanhart, Vice Chair Fishman, and Chair Allendorf

Absent: Member Howard

04:10:38 On a motion by Member Young, seconded by Member Leanhart, the following resolution, based upon the applicant's testimony, the Standard of Review and Staff Analysis, and the applicant's justification statement, was adopted:

Variance from Land Development Code Sections 5.3.4.D.4 and 5.7 to allow netting and poles to exceed the 50 foot maximum height by 120 feet:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect public health safety or welfare since the netting is necessary to protect surrounding properties from the proposed driving range, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity, as the area has a mix of high intensity residential, office and commercial uses and the general development plan for the area calls for a mix of medium to high intensity commercial and office uses, 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 it will help mitigate potential risks associated with the proposed driving range, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations, as the main building and structure will be under the height maximums for the zone. The variance is only for protective netting and associated poles, and

WHEREAS, the Board further finds that the variance will not adversely affect the public health, safety or welfare because this is an aesthetic, not health, not safety and not welfare issue. Because this is an approximately 100 acre site under development by a common developer, any impacts are almost entirely on its own users/future residents. The only other affected properties are the existing apartment community which, at time of application, we think supports this application, and the Kentucky Transportation Cabinet Snyder Freeway right of way. Considering where best to locate a facility of this kind, it's unquestionably better to locate same proximate to public facilities like an interstate highway, more so than, for example, a single family residential community, and

WHEREAS, the Board further finds that the variance will not alter the essential character of the general vicinity because this is an approximately 100 acre site under development by a common developer, and, therefore, any impacts are almost entirely on its own users/future residents, and

WHEREAS, the Board further finds that the variance will not cause a hazard or a nuisance to the public because, again, this height variance pertains to aesthetics. There are no identified hazards or nuisances resulting from the height variance to even address, and

WHEREAS, the Board further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because, as said, a facility of this kind is unquestionably better to locate same proximate to public facilities like an interstate highway, more so than, for example, a single family residential community; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1049 does hereby **APPROVE** Variance from Land Development Code Sections 5.3.4.D.4 and 5.7 to allow netting and poles to exceed the 50 foot maximum height by 120 feet.

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The vote was as follows:

**Yes: Members Young, Buttorff, Turner, Leanhart, Vice Chair Fishman, and
Chair Allendorf**

Absent: Member Howard

04:11:34 Meeting was recessed.

04:11:52 Meeting was reconvened.

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PUBLIC HEARING

17CUP1096

Request: Conditional Use Permit (CUP) for Accessory
Apartment
Project Name: Long Run Road Accessory Apartment
Location: 2035 Long Run Road
Owner/Applicant: Todd Schleuning
Jurisdiction: Louisville Metro
Council District: 19 – Julie Denton
Case Manager: Beth Jones, AICP, Planner II

NOTE: This case was heard out of order, after Item #8 on the Agenda.

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

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

Agency Testimony:

01:27:29 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:

Todd Schleuning, 2035 Long Run Road, Louisville, KY 40245

Summary of testimony of those in favor:

01:30:24 Todd Schleuning 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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01:32:20 Board Members' deliberation

01:32:45 On a motion by Member Young, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with Comprehensive Plan policies as detailed in the Cornerstone Checklist (Attachment 3), and

WHEREAS, the Board further finds that the proposal is compatible with existing development in the vicinity and the general character of the area, and

WHEREAS, the Board further finds that the site is not currently served by public sewers; the proposal has been reviewed and approved by the Louisville Metro Department of Public Health and Wellness. The proposal has also received preliminary approval from MSD and Transportation Planning. Remaining public facilities appear adequate to serve the site, and

WHEREAS, the Board further finds that:

Accessory Apartments may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5 and U-N districts upon the granting of a conditional use permit and compliance with the listed requirements:

- A. The principal and accessory dwellings shall be owned by the same person(s). Occupancy of the accessory unit shall occur only while the property owner(s) resides in the principal dwelling on the premises.
- B. The accessory apartment shall be no greater than 650 sq. ft. or 30% of the floor area of the principal residence, whichever is greater. **30% of the 3,988 sq. ft. principal residence is 1,196 sq. ft. At 400 sq. ft., the proposed accessory apartment meets this requirement.**
- C. If the accessory apartment is located in a freestanding structure, it shall not exceed the height of the principal residence. In the TNFD, permissible height shall be as allowed by the form district regulation, unless the Board approves a differing height. In all other form districts, if the freestanding structure is located within 25 feet of a property line, the height of the structure shall not exceed the

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average height of accessory structures on abutting parcels or 15 feet, whichever is greater, unless the Board finds that a different height limit is appropriate. **According to the applicant, the primary structure is 25 ft. high and the accessory apartment structure is 15 ft. high. The site is not located within a TNFD and the proposed freestanding structure is not located within 25 feet of a property line.**

- D. Sites having accessory apartments shall provide off-street parking for the principal and accessory apartment as follows:
1. Neighborhood Form District - at least three off-street spaces provided on the lot, no more than two spaces outdoors;
 2. Traditional Neighborhood - at least one off-street space provided on the lot; and
 3. Other form districts - at least two off-street spaces provided on the lot; the Board may require additional parking spaces as appropriate. **The site includes a two-vehicle garage and three additional spaces and exceeds the requirements for the Neighborhood form district;** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1096 does hereby **APPROVE** Conditional Use Permit for an Accessory Apartment (LDC 4.2.3), **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. All development shall be in accordance with the approved district development plan, including all notes thereon, and with all applicable sections of the Land Development Code (LDC). No further development shall occur on the site without prior review of and approval by the Board of Zoning Adjustment (BOZA).
2. The Conditional Use Permit shall be exercised as proscribed by KRS 100.237 within two years of BOZA approval. If it is not so exercised, an accessory apartment shall not be constructed without further review and approval by BOZA.

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The vote was as follows:

**Yes: Members Young, Buttorff, Turner, Leanhart, Vice Chair Fishman, and
Chair Allendorf**

Absent: Member Howard

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17CUP1118

Request: Conditional Use Permit, Variance, and Waivers to allow a commercial kennel in a C-1 zoning district
Project Name: Pet Suites
Location: 9420 Seatonville Road
Owner: WesBanco, Inc.
Applicant: Hogan Real Estate
Representative: Nick Pregliasco
Jurisdiction: Louisville Metro
Council District: 22 – Robin Engel
Case Manager: Jon E. Crumbie, Planning and Design Coordinator

NOTE: This case was heard out of order, after Item #9 on the Agenda.

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

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

Agency Testimony:

04:12:13 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Bill Bardenwerper, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223
Ann Richard, 503 Washburn Ave., Louisville, KY 40222
Eric Senn, 503 Washburn Ave., Louisville, KY 40222

Summary of testimony of those in favor:

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04:18:04 Bill Bardenwerper spoke in favor of the request and showed a Powerpoint presentation. Mr. Bardenwerper responded to questions from the Board Members (see recording for detailed presentation).

04:24:52 Ann Richard spoke in favor of the request in regard to landscaping/buffering (see recording for detailed presentation).

04:26:00 Mr. Bardenwerper spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

04:39:00 Eric Senn spoke in favor of the request in regard to flooding issues (see recording for detailed presentation).

04:40:17 Mr. Bardenwerper and Ms. Richard responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

Teena Halbig, 6505 Echo Trail, Louisville, KY 40299

Marcus Greer, III, 3809 Chevy Chase Rd., Louisville, KY 40218

Summary of testimony of those in opposition:

04:41:23 Teena Halbig spoke in opposition of the request and presented a slideshow of photos of the site. Ms. Halbig responded to questions from the Board Members (see recording for detailed presentation).

05:08:09 Marcus Greer, III spoke in opposition of the request in regard to traffic issues in the area (see recording for detailed presentation).

REBUTTAL:

05:13:47 Bill Bardenwerper spoke in rebuttal (see recording for detailed presentation).

05:18:10 Eric Senn responded to questions from the Board Members (see recording for detailed presentation).

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05:19:32 Mr. Bardenwerper spoke in rebuttal. Mr. Bardenwerper, Mr. Senn, and Ms. Richard responded to questions from the Board Members (see recording for detailed presentation).

05:27:12 Board Members' deliberation

05:28:29 On a motion by Vice Chair Fishman, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, the discussion, and the presentation, was adopted:

Conditional Use Permit to allow a commercial kennel in a C-1 zoning district:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the policies of the Comprehensive Plan. The applicant will be asking for variances and waivers from the Land Development Code, and

WHEREAS, the Board further finds that the proposal is compatible with surrounding uses and is less intense than the previously approved plans. This proposal will be compatible with the general character of the area including height, bulk, scale, dust, lighting, and appearance, and

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed the proposal. The Fern Creek Fire Protection District reviewed the proposal and gave instruction on what needed to be done before occupancy of the structure, and

WHEREAS, the Board further finds that:

4.2.17 Commercial Kennels Commercial Kennels may be located in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, C-1, C-2, C-M, M-1, M-2, and M-3 Zoning Districts where such use is compatible with surrounding land uses upon the granting of a Conditional Use Permit when developed in compliance with the listed requirements.

- A. Facilities Enclosed - All facilities, except parking, shall be within a totally enclosed building except where it can be demonstrated that a nuisance is not created thereby.

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- B. Signs - Except in districts where signs are allowed, there shall be no more than one non- illuminated sign not to exceed 12 square feet in area and not to exceed 6 feet in height.
- C. Fences - A continuous fence at least 6 feet high shall be erected around the portion of the site used for the kennel operation.
- D. Screening – Any outdoor animal facilities shall be screened from view.
- E. Noise - The design of the structures shall include features that acoustically shield any animal noises from surrounding property.
- F. The applicant shall demonstrate adequate provisions to prevent surface water quality impacts due to animal wastes; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1118 does hereby **APPROVE** Conditional Use Permit to allow a commercial kennel in a C-1 zoning district, **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. The applicant will install and maintain a storm sceptor.
2. The landscaping will look substantially the same as what was presented at the hearing today (July 16, 2018), with the addition of trees along the rear property line.
3. 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.
4. 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 commercial kennel without further review and approval by the Board.

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The vote was as follows:

Yes: Members Young, Buttorff, Turner, Leanhart, Vice Chair Fishman, and Chair Allendorf

Absent: Member Howard

05:32:09 On a motion by Vice Chair Fishman, seconded by Member Leanhart, the following resolution, based upon the presentation, the Standard of Review and Staff Analysis, and the applicant's justification, was adopted:

Modified variances to allow proposed structure to not be located at the Bardstown Road and Seatonville Road right-of-way line:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect public health safety or welfare since the location preserves the existing location of Cedar Creek, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since preserving the creek along the frontage of the lot is characteristic of both the residential lot to the south and the church lot across Seatonville to the north, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since buffers between the residential zones to the east and south will be provided and a buffer between the parking lot and Seatonville Road will be provided, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since Cedar Creek is an existing blue line stream being preserved on the site, and

WHEREAS, the Board further finds that the variance will not adversely affect the public health, safety or welfare because the location preserves the existing location of Cedar Creek and additional protections included in the Development Plan and Binding Elements, and

WHEREAS, the Board further finds that the variance will not alter the essential character of the general vicinity because preserving the creek along the frontage of the lot is characteristic of both the residential lot to the south and the church lot

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across Seatonville Road to the north, which are also setback from Bardstown Road. Placement of the building at the corner of Seatonville Road and Bardstown Road, if permitted by the LDC Streambank setback requirements, which it is not, would alter the character of the area by drastically changing the existing area, and

WHEREAS, the Board further finds that the variance will not cause a hazard or a nuisance to the public because buffers between the residential zones to the east and south will be provided and a buffer between the parking lot and Seatonville Road will be provided. The existing proposed building is located in approximately the same location as the previously approved CVS, just with a smaller building and less parking, and

WHEREAS, the Board further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because Cedar Creek is an existing blue line stream being preserved on the site; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1118 does hereby **APPROVE** Modified variances to allow proposed structure to not be located at the Bardstown Road and Seatonville Road right-of-way line (**Bardstown Road Requirement 265', Request 280', Variance 15'; Seatonville Road Requirement 81', Request 114', Variance 33'**).

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Leanhart, Vice Chair Fishman, and Chair Allendorf

Absent: Member Howard

05:33:29 On a motion by Vice Chair Fishman, seconded by Member Young, the following resolution, based upon the presentation, the Standard of Review and Staff Analysis, the discussion, and the applicant's justification, was adopted:

Waiver to allow the principal building entrances to not face the primary street (Bardstown Road) serving the development:

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since pedestrian connections have been provided in a safe and reasonable distance of the transit stop, and

WHEREAS, the Board further finds that Guideline 2, Policy 12 encourages large developments in activity centers to be compact, multi-purpose centers designed around a central feature such as a public square or plaza or landscaped element. Guideline 3, Policy 1 requires new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district, 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 physical constraint of crossing Cedar Creek is preventing the pedestrian connection, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the applicant would have to construct a bridge across the stream for a pedestrian connection. To have the stream crossing MSD would have to grant a variance. MSD has denied variances in the past for stream crossings on this site, and

WHEREAS, the Board further finds that the waiver will not adversely affect adjacent property owners because the size and constraints existing on this site necessitate this layout. Further, the waiver will not adversely affect adjacent property owners because facing the building to Bardstown Road, with the increased setback necessitated by the preservation of Cedar Creek, would not accomplish the goal of having the requirement of the primary entrance facing the main street (Bardstown Road) as opposed to the secondary road (Seatonville Road), and

WHEREAS, the Board further finds that the waiver will not violate the Comprehensive Plan because there would be no adverse impacts of the entrance not facing Bardstown Road to be mitigated, 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 the size, configuration and constraints of this site necessitate this layout, including the location of the entrance, and

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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 the applicant would otherwise be unable to fit its new building on this site in the only arrangement that practically works for it. Facing the building to Bardstown Road, with the parking on this side of the building would cause further encroachments into the streambank setbacks; and

Waiver to allow the parking lot to be permitted in front of the proposed structure:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since pedestrian connections have been provided in a safe and reasonable distance of the transit stop, and

WHEREAS, the Board further finds that Guideline 9, Policy 1 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with walkways for access to public transportation stops. The waiver is compatible with the pattern of development within the form district because of the stream crossing that would have to occur which prevents compliance with the regulation. Therefore, the waivers will not violate specific guidelines and policies of Cornerstone 2020, 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 physical constraint of crossing Cedar Creek is preventing the pedestrian connection, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the applicant would have to construct a bridge across the stream for a pedestrian connection. To have the stream crossing MSD would have to grant a variance. MSD has denied variances in the past for stream crossings on this site, and

WHEREAS, the Board further finds that the waiver will not adversely affect adjacent property owners because safe pedestrian access is provided from the public rights-of-way to the building entrance along Seatonville Road, and

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WHEREAS, the Board further finds that the waiver will not violate the Comprehensive Plan because Guideline 2, Policy 15 encourages the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Guideline 3, Policy 1 ensures compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the Form District. Guideline 3, Policy 23 states that setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet Form District Guidelines. Guideline 7, Policy 3 states to evaluate developments for their ability to promote mass transit and pedestrian use. This encourages higher density mixed use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation choices. Guideline 9, Policy 1 states that new development and redevelopment should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with location of retail and office uses, especially in the Traditional Neighborhood, Village, Marketplace Corridor, Traditional Workplace Form Districts close to the roadway to minimize the distance pedestrians and transit users have to travel. The purpose of the requirement is to promote mass transit and pedestrian use and reduce vehicle trips in and around the site, and to reduce the distance pedestrians and transit users have to travel. Cedar Creek on the site constrains the building location, making an orientation toward Seatonville Road with parking in front the only feasible alternative, 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 Cedar Creek and the existing sewers are the physical restraints preventing compliance with the regulations to be waived, 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 the existing sewers would have to be relocated to accommodate the structure. Additional mitigation could occur with the compliance of the VUA LBA along Seatonville to make the site more in compliance with other areas of the LDC; and

Waiver to omit a clearly defined, safe pedestrian access from the Bardstown Road right-of-way (public sidewalk):

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since safe pedestrian access is provided from the public rights-of-way to the building entrance along Seatonville Road, and

WHEREAS, the Board further finds that Guideline 2, policy 15 states to encourage the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Guideline 3, policy 1 states to ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. Guideline 3, policy 23 states that setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines. Guideline 7, policy 3 states to evaluate developments for their ability to promote mass transit and pedestrian use. Encourage higher density mixed use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation choices. Guideline 9, policy 1 states that new development and redevelopment should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with location of retail and office uses, especially in the Traditional Neighborhood, Village, Marketplace Corridor, Traditional Workplace Form Districts close to the roadway to minimize the distance pedestrians and transit users have to travel. The purpose of the requirement is to promote mass transit and pedestrian use and reduce vehicle trips in and around the site, and to reduce the distance pedestrians and transit users have to travel. Cedar Creek and the existing sewers on the site constrain the building location. Therefore, the waivers will not violate specific guidelines and policies of Cornerstone 2020, and

WHEREAS, the Board further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since Cedar Creek and the existing sewers are the physical restraints preventing compliance with the regulations to be waived, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the existing sewers would have to be relocated to accommodate the structure, and

WHEREAS, the Board further finds that the waiver will not adversely affect adjacent property owners because pedestrian connections have been provided to Seatonville Road in a safe and reasonable distance of the transit stop, and

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WHEREAS, the Board further finds that The waiver will not violate the Comprehensive Plan because Guideline 9, Policy 1 states that new development provides, where appropriate, for the movement of pedestrians, bicyclists and transit users with walkways for access to public transportation stops. The waiver is compatible with the pattern of development within the form district because of the stream crossing that would have to occur which prevents compliance with the regulation, 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 the physical constraint of crossing Cedar Creek is preventing the pedestrian connection, 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 the applicant would have to construct a bridge across the stream for a pedestrian connection. To have the stream crossing, MSD would have to grant a variance. MSD has denied variances in the past for stream crossings on this site; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1118 does hereby **APPROVE** Waiver to allow the principal building entrances to not face the primary street (Bardstown Road) serving the development, Waiver to allow the parking lot to be permitted in front of the proposed structure, and Waiver to omit a clearly defined, safe pedestrian access from the Bardstown Road right-of-way (public sidewalk).

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Leanhart, Vice Chair Fishman, and Chair Allendorf

Absent: Member Howard

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18CUP1023

Request: Conditional Use Permit to allow an accessory apartment in an R-5 zoning district
Project Name: Harrogate Court Accessory Apartment
Location: 10500 Harrogate Court
Owner: Beverly Schleicher
Applicant: Matt Ridge
Jurisdiction: Louisville Metro
Council District: 24 – Madonna Flood
Case Manager: Jon E. Crumbie, Planning and Design Coordinator

NOTE: This case was heard out of order, after Item #10 on the agenda.

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

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

Agency Testimony:

01:34:40 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:

Matt Ridge, 819 Foxwood Avenue, Louisville, KY 40223

Summary of testimony of those in favor:

01:37:27 Matt Ridge 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.

01:39:45 Board Members' deliberation

01:40:24 On a motion by Member Young, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the applicable policies of the Comprehensive Plan. No new development will occur on the site. All improvements are inside the existing residence. The applicant is not proposing any new landscaping, 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 Okolona Fire Protection District did not comment on the proposal, and

WHEREAS, the Board further finds that:

4.2.3 Accessory Apartments Accessory Apartments may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5 and U-N districts upon the granting of a conditional use permit and compliance with the listed requirements.

- A. The principal and accessory dwellings shall be owned by the same person(s). Occupancy of the accessory unit shall occur only while the property owner(s) resides in the principal dwelling on the premises.
- B. The accessory apartment shall be no greater than 650 square feet or 30% of the floor area of the principal residence, whichever is greater.
- C. If the accessory apartment is located in a freestanding structure, it shall not exceed the height of the principal residence. In the TNFD, permissible height shall be as allowed by the form district regulation, unless the Board approves a differing height. In all other form districts, if

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the freestanding structure is located within 25 feet of a property line, the height of the structure shall not exceed the average height of accessory structures on abutting parcels or 15 feet, whichever is greater, unless the Board finds that a different height limit is appropriate.

- D. Sites having accessory apartments shall provide off-street parking for the principal and accessory apartment as follows: 1. Neighborhood Form District - at least three off-street spaces provided on the lot, no more than two spaces outdoors; 2 Traditional Neighborhood - at least one off-street space provided on the lot; and 3. Other form districts - at least two off-street spaces provided on the lot; the Board may require additional parking spaces as appropriate; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1023 does hereby **APPROVE** Conditional Use Permit to allow an accessory apartment in an R-5 zoning district and Neighborhood Form District, **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 an accessory apartment without further review and approval by the Board.

The vote was as follows:

Yes: Members Young, Buttorff, Turner, and Vice Chair Fishman

Recuse: Member Leanhart

Abstain: Chair Allendorf

Absent: Member Howard

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PUBLIC HEARING

18APPEAL1002

Request: Review of Notice of Violation
Project Name: Shelbyville Road Appeal
Location: 16922 Shelbyville Road
Owner: YL Property Partners, LLC
Appellant: Lucy Kerman
Representative: Michael F. Lawrence
Jurisdiction: Louisville Metro
Council District: 19 – Julie Denton
Case Manager: Chris French, 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 5th Street.)

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

Agency Testimony:

05:37:04 Chris French presented the case and showed a Powerpoint presentation. Mr. French responded to questions from the Board Members (see staff report and recording for detailed presentation).

05:48:48 Joe Haberman, Planning and Design Manager, responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the appeal:

Mike Lawrence, 440 S. 7th Street, #200, Louisville, KY 40203
Lucy Kerman, 2800 Mayo Lane, Prospect, KY 40059

Summary of testimony of those in favor:

05:49:37 Mike Lawrence spoke in favor of the appeal. Mr. Lawrence provided additional information to the Board Members. Mr. Lawrence stated this

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property has never been used as a residence and has always been used as commercial property. Mr. Lawrence responded to questions from the Board Members (see recording for detailed presentation).

06:01:12 Joe Haberman responded to the Board Members regarding the type of nonconforming use for this property. Mr. Haberman read from the LDC regarding uses for nonconforming rights (see recording for detailed presentation).

06:07:47 Lucy Kerman spoke in favor of the appeal and responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

06:11:28 Chris French spoke in rebuttal (see recording for detailed presentation).

06:12:23 Board Members' deliberation

06:13:00 On a motion by Vice Chair Fishman, seconded by Member Turner, the following resolution, based upon the information received from the appellant that it was a contractor's shop, documentation that previous owners had used it as a contractor's shop, and the picture of the property, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **OVERTURN STAFF DETERMINATION** in Case Number 18APPEAL1002, Appeal of a Notice of Violation (NOV) issued by a Zoning Enforcement officer concerning the use of a contractor's shop at 16922 Shelbyville Road, Louisville, KY, and the Board further finds that the contractor's shop with outdoor storage located at 16922 Shelbyville Road has nonconforming rights.

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Leanhart, Vice Chair Fishman, and Chair Allendorf

Absent: Member Howard

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ADJOURNMENT

The meeting adjourned at approximately 8:10 p.m.

Chair

Secretary