

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

September 17, 2018

A meeting of the Louisville Metro Board of Zoning Adjustment was held on September 17, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Rosalind Fishman, Chair
Dwight Young, Vice Chair
Lula Howard, Secretary
Richard Buttorff
Lester Turner, Jr.
Kimberly Leanhart

Staff Members Present:

Emily Liu, Planning & Design Director
Laura Ferguson, Assistant Director, Louisville Forward
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Steve Hendrix, Planning & Design Coordinator
Jon Crumie, Planning & Design Coordinator
Dante St. Germain, Planner II
John Carroll, Legal Counsel (left at approximately 2:30 p.m.)
Travis Fiechter, Legal Counsel (approximately 2:30 p.m. – 4:00 p.m.)
Paul Whitty, Legal Counsel (arrived at approximately 6:30 p.m.)
Sue Reid, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

**SEPTEMBER 4, 2018 BOARD OF ZONING ADJUSTMENT MEETING
MINUTES**

00:03:24 On a motion by Member Howard, seconded by Member Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on September 4, 2018.

The vote was as follows:

Yes: Members Buttorff, Turner, Howard, Leanhart, and Chair Fishman

Abstain: Vice Chair Young

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BUSINESS SESSION

CASE NUMBER 18VARIANCE1074

Request:	Variance to allow a structure to encroach into the required side yard setback
Project Name:	Barret Avenue Addition
Location:	602 Barret Avenue
Owner:	GMJ Properties LLC
Applicant:	Steve Smith
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Dante St. Germain, Planner II

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

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

Agency testimony:

00:04:22 Dante St. Germain presented the case and showed the site plan (see staff report and recording for detailed presentation).

00:06:26 On a motion by Member Howard, seconded by Vice Chair Young, the following resolution, based upon the Staff Report, 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 addition will have to be constructed according to building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the existing structure already encroaches into the side yard setback, which is part of the essential character of the general vicinity, and

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WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed addition will have to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as stepping back the second story would create a costly engineering challenge, and encroachments into the side yard setback are common in the neighborhood, 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 existing structure encroaches into the side yard setback, 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 step back the second story, which would be infeasible from an engineering perspective, 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; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1074 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 ft., Variance 2.5 ft.**).

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1068

Request:	Variances to allow fences in the street side yard setback to exceed four feet in height, and variances to allow a private swimming pool and deck to encroach into the street side yard setback
Project Name:	Bay Pine Drive Fences, Deck & Pool
Location:	5900 Bay Pine Drive
Owner/Applicant:	Teresa Ramey
Jurisdiction:	Louisville Metro
Council District:	23 – James Peden
Case Manager:	Dante St. Germain, Planner II

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

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

Agency testimony:

00:09:24 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:

Teresa Ramey, 5900 Bay Pine Drive, Louisville, KY 40219
Ted Wells, 5908 Bay Pine Drive, Louisville, KY 40219
Alex Redden, 8112 Michael Ray Drive, Louisville, KY 40219

Summary of testimony of those in favor:

00:17:41 Teresa Ramey spoke in favor of the request and showed a Powerpoint presentation representing similar structures in her neighborhood. Ms. Ramey's presentation also included renderings of how the finished project will look. Ms. Ramey's presentation included photographs of the inside of the

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deck fence with markings indicating heights at various levels. Ms. Ramey stated she understands she did not do this the proper way, not out of desire to not do it the right way, she just didn't understand the process. Ms. Ramey stated she did look at trying to move it back out of the setback, but no one will take the pool down and then put it back up, she would just have to lose it. Ms. Ramey stated she hasn't done anything else to it until she knows what she can do because she is already going to lose a lot of money. Ms. Ramey responded to questions from the Board Members (see recording for detailed presentation).

00:26:27 Ted Wells spoke in favor of the request. Mr. Wells stated he has been Teresa's neighbor for eight years. Mr. Wells stated he doesn't see anything wrong with this and he actually likes it and would like to see it stay. Mr. Wells responded to questions from the Board Members (see recording for detailed presentation).

00:28:38 Alex Redden spoke in favor of the request. Mr. Redden he thinks the project was well done and it doesn't obstruct any lines of sight to the intersection. Mr. Redden stated since it doesn't really cause an issue of security or line of sight or an eyesore for the neighborhood, he wonders if there is a way to approve the variances. Mr. Redden stated Ms. Ramey has offered suggestions; she is trying to look at ways that she can accommodate to make it more pleasing for the neighborhood as well (see recording for detailed presentation).

The following spoke neither for nor against the request:

Michael Christensen, 8219 Delido Road, Louisville, KY 40219

Summary of testimony of those neither for nor against:

00:31:45 Michael Christensen spoke neither for nor against the request. Mr. Christensen stated he is in favor of three of the four variances. Mr. Christensen stated the existing six foot fence that was in place for the last eleven to twelve years looks great, no problem with that whatsoever. Mr. Christensen stated he has no problem with the deck or the pool, he couldn't even see it, didn't know it was there. Mr. Christensen stated he does think the nine foot fence is too high. Mr. Christensen stated his concern is if this is established as acceptable, someone else could come and say hey, she can have it, I want mine too. Mr. Christensen stated he has one other concern, and this is in regard to the procedure in place. Mr. Christensen stated at the last meeting people would email in opinions and one of the members of the Board stated they're not going

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to consider those because they should be here. Mr. Christensen stated if that's the case, when people email they need to be aware that's not going to count and they need to come to the meeting. Chair Fishman stated generally they try to make sure that it does count. Mr. Christensen stated this was said at the meeting. Chair Fishman stated she understands and thanked Mr. Christensen for his comments (see recording for detailed presentation).

The following spoke in opposition of the request:

Barbara Yocum, 8315 Twisted Pine Road, Louisville, KY 40219
John Torsky, 601 W. Jefferson Street, Louisville, KY 40201

Summary of testimony of those in opposition:

00:34:12 Barbara Yocum spoke in opposition of the request. Ms. Yocum stated she also had no problem with the original fence and the pool. Ms. Yocum stated she is with the neighborhood association which was dormant from 1982 until 2009. Ms. Yocum stated she does object to the nine and a half foot fence. Ms. Yocum stated they have had a lot of problems, even with six foot fences, with people parking vehicles in their back yard (see recording for detailed presentation).

00:41:28 John Torsky from Councilman James Peden's office spoke in opposition of the request. Mr. Torsky stated they also have no problem with the original fence and the pool. Mr. Torsky stated they got calls on the additional nine foot fence that went up. Mr. Torsky stated this is Metro regulations they're trying to uphold and their thought is that this is out of character with the neighborhood. Mr. Torsky stated the trees are a good idea to add some more privacy and perhaps she could almost get the desired effect with the trees. Mr. Torsky stated as far as concern about people falling down, perhaps a railing might get the job done. Mr. Torsky stated one gentleman brought it up too, but they always tell people if they can't make a meeting to send a comment to the case manager to be included in the staff report. Mr. Torsky stated these meetings are at one o'clock on a weekday, and that was something that they did notice and kind of struck them the wrong way; not everyone can get down here at one o'clock (see recording for detailed presentation).

REBUTTAL:

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00:45:33 Teresa Ramey spoke in rebuttal. Ms. Ramey stated she is not clear as to what is acceptable – she can put a railing up, it just can't be a privacy fence? Chair Fishman stated she thinks what they're saying is that the nine foot fence is too high. Ms. St. Germain stated that would still require a variance up to the top of the railing. Ms. Ramey stated that's what she's asking; if she takes the fencing down, how could she make it safe to stand above there and she'd have to have some other type of permit or variance to make it safe. Ms. Ramey stated she understands they don't want to look at something that's nine feet tall, and she's okay with fixing that, but is she going to end up in the same situation. Ms. Ramey responded to questions from the Board Members (see recording for detailed presentation).

00:50:31 Board Members' deliberation

00:51:30 On a motion by Vice Chair Young, seconded by Member Howard, the following resolution, based upon Standard of Review and Staff Analysis, the variance justification statement, and the testimony heard today, was adopted:

Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence in the street side yard in the Neighborhood form district to exceed 48 inches in height:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the fence does not extend to the corner and does not obstruct sight lines for drivers, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as there are similar six-foot privacy fences in the general vicinity, and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as a fence is needed to protect a pool, and the six-foot height provides better deterrence to children compared with a four-foot height, and

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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 the property is regular in shape and similar in size to other nearby corner lots, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may create an unnecessary hardship on the applicant by requiring the applicant to reduce the height of an existing fence to 4 feet, and

WHEREAS, the Board further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the fence has already been constructed , and

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

Variance from Land Development Code Section 4.4.10.A to allow a private swimming pool to encroach into the required street side yard setback:

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 pool is protected by an existing fence, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the pool is screened by an existing privacy fence, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the pool has existed for approximately 11 years without causing a 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 a previously existing shed limits the possible location of a pool, 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 property is regular in shape and similar in size to other nearby corner lots, and

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WHEREAS, the Board further finds that the strict application of the provisions of the regulation may create an unnecessary hardship on the applicant by requiring the applicant to relocate an existing pool, and

WHEREAS, the Board further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the pool has already been constructed, and

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

Variance from Land Development Code Table 5.3.1 to allow a deck to encroach into the required street side yard setback:

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 deck is screened by an existing fence, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the deck is screened by an existing privacy fence, and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the placement of the deck is around a previously-existing pool, 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 property is regular in shape and similar in size to other nearby corner lots, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may create an unnecessary hardship on the applicant by requiring the applicant to move the deck so as to be less useable around the pool, and

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WHEREAS, the Board further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the deck has already been constructed, 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 18VARIANCE1068 does hereby **APPROVE** Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence in the street side yard in the Neighborhood form district to exceed 48 inches in height (**Requirement 4 feet, Request 6 feet, Variance 2 feet**), Variance from Land Development Code Section 4.4.10.A to allow a private swimming pool to encroach into the required street side yard setback (**Requirement 30 feet, Request 23 feet, Variance 7 feet**), and Variance from Land Development Code Table 5.3.a to allow a deck to encroach into the required street side yard setback (**Requirement 30 feet, Request 18 feet, Variance 12 feet**).

The vote was as follows:

Yes: Members Howard, Leanhart, Vice Chair Young, and Chair Fishman

No: Members Buttorff, and Turner

00:53:32 A motion was made by Vice Chair Young, seconded by Member Howard, to **DENY** Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence in the street side yard in the Neighborhood form district to exceed 48 inches in height, based upon the opposition testimony and the Standard of Review and Staff Analysis.

00:54:53 Joe Haberman, Planning & Design Manager, reminded the Board Members that they have already approved a variance for the deck, which is elevated. Mr. Haberman stated that Building Code may require a railing of at least 36 inches to meet residential code around the elevated deck. Mr. Haberman suggested the Board Members keep that in mind if they go in the direction of this motion which would be to deny the fence that's on top of the deck, they may have to open up a motion to vary to allow a railing as required by Building Code. Staff and Board Members discussed this (see recording for detailed presentation).

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00:57:45 John Carroll, Legal Counsel, stated there is a motion on the floor, and they're getting into alternatives on how to deal with it, so they need to vote on the motion or pass another one. Chair Fishman asked if Vice Chair Young could make an amendment to his motion and Mr. Carroll said yes (see recording for detailed presentation).

00:58:10 Vice Chair Young amended his previous motion for the Variance from Land Development Code Section 4.4.3.A.1.a.i that upon the removal of the fence that a 36 inch railing be constructed to the deck in order to comply with Building Code. Member Howard seconded the amendment (see recording for detailed presentation).

00:58:38 Chair Fishman asked for a point of clarification as to whether they could just take the fence down to 36 inches and that would do it. Vice Chair Young said no, there would be a 36 inch railing from the top of the deck's surface. Board Members, Legal Counsel, and staff discussed the intent of the motion on the floor (see recording for detailed presentation).

01:01:45 Vice Chair Young restated his motion on the floor to **DENY** Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence in the street side yard in the Neighborhood form district to exceed 48 inches in height, based upon the opposition's testimony, and the Standard of Review and Staff Analysis, and as required by Building Code a 36 inch railing be constructed onto the deck. The motion was seconded by Member Howard.

01:02:36 Joe Haberman stated he has never seen an allowance attached to a denial. Mr. Haberman stated generally they are still giving a variance to the height. Mr. Haberman stated he would ask the applicant if they agree with amending that request to allow a railing, then they could approve an amended variance of the lesser height request, or just deny it and then they would have the option of appealing when they can't get a building permit to put the railing up (see recording for detailed presentation).

01:03:34 Public Hearing was reopened to allow discussion with Ms. Ramey in regard to amending the variance request (see recording for detailed presentation).

01:04:44 Discussion was moved back to Business Session. Board Members, Legal Counsel, and staff discussed how to handle the motion on the floor (see recording for detailed presentation).

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01:07:25 The motion on the floor was **WITHDRAWN** by Vice Chair Young, and the withdrawal was seconded by Member Howard (see recording for detailed presentation).

01:07:35 On a motion by Vice Chair Young, seconded by Member Howard, the following resolution, based upon the applicant's testimony, the applicant's variance justification in lieu of the staff findings, and with the applicant's approval, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1068 does hereby **APPROVE** Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence in the street side yard in the Neighborhood form district to exceed 48 inches in height (**Requirement 4 feet, AMENDED Request 6.5 feet, AMENDED Variance 2.5 feet**), **SUBJECT** to the following Condition of Approval:

Condition of Approval:

1. The fence shall be stained to match the existing fence as it is today.

The vote was as follows:

Yes: Members Turner, Howard, Leanhart, Vice Chair Young, and Chair Fishman

No: Member Buttorff

01:11:32 Meeting was recessed.

01:11:49 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1069

Request:	Variance to allow a private yard area to be less than the required 30% of the area of a lot
Project Name:	S. Brook Street Carriage House
Location:	1214 S Brook Street
Owner/Applicant:	Kathryn & Paul Brown
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Dante St. Germain, Planner II

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

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

Agency Testimony:

01:12:18 Dante St. Germain presented the case and showed a Powerpoint presentation. Ms. St. Germain responded to questions from the Board Members. Ms. St. Germain provided elevations to the Chair Fishman (see recording for detailed presentation).

The following spoke in favor of the request:

Kathryn Brown, 1214 S. Brook Street, Louisville, KY 40203

Summary of testimony of those in favor:

01:17:58 Kathryn Brown spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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CASE NUMBER 18VARIANCE1069

01:19:19 Board Members' deliberation

01:19:51 On a motion by Member Leanhart, seconded by Vice Chair Young, the following resolution, based upon the Standard of Review and Staff Analysis, the presentation, and the variance justification, 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 reduction in private yard area is relatively small and is unlikely to cause adverse effects, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the reduced private yard area will not be apparent from the right-of-way or from adjacent properties, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed reduction in private yard area is relatively small and 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 carriage houses are common in the area, 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 the subject property is regular in shape and similar in area to other lots 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 reducing the size of the carriage house below a useable area, 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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.RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1069 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of a lot (**Requirement 2,400 sf., Request 1,774 sf., Variance 626 sf.**).

The vote was as follows:

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

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CASE NUMBER 18VARIANCE1078

Request:	Variance to allow structures to encroach into the required front yard setback on double-frontage lots, and Variance to allow structures to encroach into the required street side yard setbacks
Project Name:	Park Springs Variance
Location:	Park Springs (formerly Lake Louisville)
Owner:	Park Springs LLC
Applicant:	Patrick Dominik – Sabak, Wilson & Lingo
Jurisdiction:	Louisville Metro
Council District:	17 – Glen Stuckel
Case Manager:	Dante St. Germain, Planner II

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

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

Agency Testimony:

01:22:34 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:

Pat Dominik, 608 S. Third Street, Louisville, KY 40202

Summary of testimony of those in favor:

01:27:54 Pat Dominik spoke in favor of the request and showed a Powerpoint presentation. Mr. Dominik responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 18VARIANCE1078

The following spoke in opposition of the request:

No one spoke

01:39:47 Board Members' deliberation

01:40:01: On a motion by Member Howard, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the applicant's justification, was adopted:

Variance from Land Development Code Table 5.3.1 to allow structures on two double-frontage lots to encroach into the required front yard setback along Black Gum Lane:

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 lots for which the variance is requested are double-frontage lots interior to the block face, with the result that the reduced setback will not affect sight lines for drivers, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the development is currently unbuilt and the essential character of the general vicinity will be defined in the future, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed reduced setback is not located at street corners, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed neighborhood has a unique development history and the lots are consequently substandard, 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 subject development was originally platted in 1924 but was never constructed, resulting in substandard lots even after re-platting, and

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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 accessory structures that are very close to the principal structures on two lots, or else prevent the applicant from constructing accessory structures at all, 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 these variances result from the unique circumstance involved the Park Springs subdivision, which was based on the 1924 Lake Louisvilla plat. All of the 16 variances requested are interior to the subdivision and do not affect existing perimeter property owners. Therefore, the granting of this variance will not affect the public health, safety or welfare, and

WHEREAS, the Board further finds that these variances address design and architectural standards contained in the Park Springs Pattern Book, and will be uniformly applied throughout the housing construction process. There are no existing residences affected, as a result, the granting of the variance will not adversely alter the essential character of the general vicinity, but in fact enhance the general character of corner lots in the subdivision, and

WHEREAS, the Board further finds that the granting of the variance will still not encroach on existing LG&E utility easements which parallel one side of the right-of-way and accommodates vehicle parking for side yard entry homes. Sidewalks are provided throughout the neighborhood and there are no other grade or physical constraints on the lots that cause a hazard or a nuisance to the public, and

WHEREAS, the Board further finds that the extent of these variances is the minimal necessary to allow the same size home that can be constructed on interior lots to be also constructed on the 16 corner and double frontage lots. In addition, the granting of the variance will further accommodate the design and architectural requirements contemplated in the Park Springs Pattern Book. This request is therefore not an unreasonable circumvention of the requirements of the zoning regulations, and

WHEREAS, the Board further finds that the plat for Park Springs and the roadway pattern were established by the record plat for Lake Louisvilla

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subdivision in 1924. Imposing the current R-4 front and street side yard setbacks of 30 feet to the consolidated building lots creates the special circumstances which impact 16 corner and double frontage lots at Park Springs. These circumstances do not generally apply to land in the general vicinity, and

WHEREAS, the Board further finds that the strict application of the provisions of this regulation would create smaller building pads on corner lots than interior lots in the subdivision. The standard building width on interior lots in Park Springs is 30 ft., but only 25' on corner lots. In new subdivisions designed today without the pre-existing lotting pattern of the Lake Louisville area, corner lots can be designed to accommodate larger homes. As a result, the strict application of the regulation would deprive the applicant of building the same house on a corner lot that he can build on an interior lot, and

WHEREAS, the Board further finds that the circumstances are the result of a historic lot pattern that existed long before the applicant became involved with Park Springs and prior to Jefferson County's adoption of the Land Development Code; and

Variance from Land Development Code Table 5.3.1 to allow structures on fourteen lots to encroach into the required street side yard setback:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as there will still be adequate sight distances at the corners with the reduced setback, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the development is currently unbuilt and the essential character of the general vicinity will be defined in the future, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed reduced setback will not obstruct sight distances for drivers, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed neighborhood has a unique development history and the lots are consequently substandard, and

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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 subject development was originally platted in 1924 but was never constructed, resulting in substandard lots even after re-platting, 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 very narrow houses on all of the corner lots, 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 these variances result from the unique circumstance involved the Park Springs subdivision, which was based on the 1924 Lake Louisville plat. All of the 16 variances requested are interior to the subdivision and do not affect existing perimeter property owners. Therefore, the granting of this variance will not affect the public health, safety or welfare, and

WHEREAS, the Board further finds that these variances address design and architectural standards contained in the Park Springs Pattern Book, and will be uniformly applied throughout the housing construction process. There are no existing residences affected, as a result, the granting of the variance will not adversely alter the essential character of the general vicinity, but in fact enhance the general character of corner lots in the subdivision, and

WHEREAS, the Board further finds that the granting of the variance will still not encroach on existing LG&E utility easements which parallel one side of the right-of-way and accommodates vehicle parking for side yard entry homes. Sidewalks are provided throughout the neighborhood and there are no other grade or physical constraints on the lots that cause a hazard or a nuisance to the public, and

WHEREAS, the Board further finds that the extent of these variances is the minimal necessary to allow the same size home that can be constructed on interior lots to be also constructed on the 16 corner and double frontage lots. In addition, the granting of the variance will further accommodate the design and architectural requirements contemplated in the Park Springs Pattern Book. This

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request is therefore not an unreasonable circumvention of the requirements of the zoning regulations, and

WHEREAS, the Board further finds that the plat for Park Springs and the roadway pattern were established by the record plat for Lake Louisville subdivision in 1924. Imposing the current R-4 front and street side yard setbacks of 30 feet to the consolidated building lots creates the special circumstances which impact 16 corner and double frontage lots at Park Springs. These circumstances do not generally apply to land in the general vicinity, and

WHEREAS, the Board further finds that the strict application of the provisions of this regulation would create smaller building pads on corner lots than interior lots in the subdivision. The standard building width on interior lots in Park Springs is 30 ft., but only 25' on corner lots. In new subdivisions designed today without the pre-existing lotting pattern of the Lake Louisville area, corner lots can be designed to accommodate larger homes. As a result, the strict application of the regulation would deprive the applicant of building the same house on a corner lot that he can build on an interior lot, and

WHEREAS, the Board further finds that the circumstances are the result of a historic lot pattern that existed long before the applicant became involved with Park Springs and prior to Jefferson County's adoption of the Land Development Code; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1078 does hereby **APPROVE** Variance from Land Development Code Table 5.3.1 to allow structures on two double-frontage lots to encroach into the required front yard setback along Black Gum Lane (**Requirement 30 ft., Request 20 ft., Variance 10 ft.**), and Variance from Land Development Code Table 5.3.1 to allow structures on fourteen lots to encroach into the required street side yard setback (**Requirement 30 ft., Request 20 ft., Variance 10 ft.**).

The vote was as follows:

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

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CASE NUMBER 18VARIANCE1079

Request:	Variance to allow a fence to exceed 42" in the street side yard
Project Name:	S. Shelby Street Variance
Location:	2113 S. Shelby Street
Owner/Applicant:	Michael Ballard
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
Case Manager:	Chris French, AICP, Planning Supervisor

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

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

Agency Testimony:

01:43:26 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).

The following spoke in favor of the request:

Mike Ballard, 163 Abbey Ridge, Bardstown, KY 40004

Summary of testimony of those in favor:

01:46:53 Mike Ballard 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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01:49:12 **Board Members' deliberation**

01:49:39 **Public Hearing was reopened to allow the applicant to respond to a question from Board Member Howard (see recording for detailed presentation).**

01:50:04 **Board Members' deliberation**

01:50:14 On a motion by Member Howard, seconded by Vice Chair Young, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, and the applicant's justification, 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 fence will not extend to the corner and will not adversely affect vehicular or pedestrian traffic, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposed fence will be similar to one across Texas Avenue, and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as there are buildings with greater scale and mass than the proposed fence nearby, 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 the lot is regular in shape and similar in size to other lots on the general vicinity, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the fence could be lowered to the standard of 42 inches, 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 18VARIANCE1079 does hereby **APPROVE** Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence in the street side yard setback to exceed 42 inches in height in the Traditional Neighborhood Form District **(Requirement 3.5 ft., Request 5 ft., Variance 1.5 ft.)**.

The vote was as follows:

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

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CASE NUMBER 18VARIANCE1080

Request: Variances to allow a sign to exceed the maximum height and area in the Traditional Neighborhood form district with associated waivers to allow a changing image sign to be closer than 300 feet to residential properties and to allow a changing image panel to exceed 30% of the sign area

Project Name: W. Kenwood Drive Variance

Location: 425 W. Kenwood Drive

Owner: Roman Catholic Bishop of Louisville

Applicant/Representative: Karla Hill – Smart LED Signs & Lighting

Jurisdiction: Louisville Metro

Council District: 21 – Vitalis Lanshima

Case Manager: Chris French, AICP, Planning Supervisor

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

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

Agency Testimony:

01:52:30 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).

The following spoke in favor of the request:

Tim Story, 11433 Blankenbaker Access Drive, Louisville, KY 40299

Summary of testimony of those in favor:

01:58:41 Tim Story spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

02:01:25 Board Members' deliberation

02:01:43 On a motion by Vice Chair Young, seconded by Member Howard, the following resolution, based upon the Standard of Review and Staff Analysis, and the applicant's justification, and the testimony heard today, was adopted:

Variance from Land Development Code Table 8.3.2 to allow a sign to exceed the allowable height in the Traditional Neighborhood Form District:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance to exceed the maximum height will not adversely affect the public health, safety, or welfare as the existing sign is nonconforming in that it currently exceeds the height allowance and has caused no known adverse effects. The existing sign is also taller than the proposed sign, and

WHEREAS, the Board further finds that the requested variance to exceed the maximum height will not alter the essential character of the general vicinity as the existing sign has been in place for many years and has become part of the character of the neighborhood. Also, the proposed sign is smaller in height and area and is closer in compliance to the Land Development Code, and

WHEREAS, the Board further finds that the requested variance to exceed the maximum height will not cause a hazard or nuisance to the public as the sign will not obstruct views for drivers or pedestrians as the proposed sign would be shorter and would have a lesser impact than the existing sign, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed sign is shorter than the existing sign, and

WHEREAS, the Board further finds that the requested variance arises in part from special circumstances which do not apply to land in the general vicinity or the same zone because the site is used for a school and the existing building setback and parking location increase the importance of a freestanding sign, and

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WHEREAS, the Board further finds that the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the applicant could make the new sign comply with the Traditional Neighborhood Form District height restrictions. However, the existing parking conditions would make a shorter monument style sign less visible than the existing pole sign, 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; and

Variance from Land Development Code Table 8.3.2 to allow a sign to exceed the allowable area in the Traditional Neighborhood Form District:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance to exceed the maximum area will not adversely affect the public health, safety or welfare as the existing sign is nonconforming in that it currently exceeds the area allowance and has caused no known adverse impacts. The existing sign is also larger than the proposed sign, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the existing sign has been in place for many years and has become part of the character of the neighborhood; therefore, a new sign that is smaller in size would have less impact on the character of the neighborhood, and

WHEREAS, the Board further finds that the requested variance to exceed the maximum area will not cause a hazard or nuisance to the public as the sign will not obstruct views for drivers or pedestrians as the proposed sign would be smaller than the existing sign, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed sign will be in the same location as the existing sign and will be smaller than the existing sign, and

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WHEREAS, the Board further finds that the requested variance arises in part from special circumstances which do not apply to land in the general vicinity or the same zone because the site is used for a school and the existing building setback and parking location increase the importance of a freestanding sign, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the applicant could make the new sign comply with the Traditional Neighborhood Form District height restrictions. However, the existing parking conditions would make a shorter monument style sign less visible than the existing pole sign, 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 18VARIANCE1080 does hereby **APPROVE** Variance from Land Development Code Table 8.3.2 to allow a sign to exceed the allowable height in the Traditional Neighborhood Form District (**Requirement 6 ft., Request 7.15 ft., Variance 1.15 ft.**), and Variance from Land Development Code Table 8.3.2 to allow a sign to exceed the allowable area in the Traditional Neighborhood Form District (**Requirement 32 sq. ft., Request 59.57 sq. ft., Variance 27.57 sq. ft.**).

The vote was as follows:

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

02:03:09 On a motion by Vice Chair Young, seconded by Member Howard, the following resolution, based upon the Standard of Review and Staff Analysis, and the presentation heard today, was adopted:

Waiver from Land Development Code Section 8.2.1.D.4.a to allow the changing image panel of a sign to exceed 30% of the total area of the sign:

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as the proposed sign would be located on a frontage road off of W. Kenwood Drive behind a row of trees, and

WHEREAS, the Board further finds that the waiver may violate specific guidelines of Cornerstone 2020 as Cornerstone 2020 states that signs should be compatible with the form district pattern and contribute to the visual quality of their surroundings. Promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety. Encourage signs that are integrated with or attached to structures wherever feasible; limit freestanding signs to monument style signs unless such design would unreasonably compromise sign effectiveness. The changing image portion of the sign may violate the aforementioned guidelines, however, the setback of the structures on the site do not typically meet the standards set forth in the form district. Also, the subject property has a large street frontage not typically found in the form district, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant as the sign could be designed so as to comply with the regulations. However, the land use and structures on the subject property are not typical for the form district. Also, the property has a large street frontage and is setback from the main road, and

WHEREAS, the Board further finds that the applicant has changed the design of the sign from a pole sign to a monument style sign, which is what Cornerstone 2020 requires. The applicant has agreed to make the white portion of the static section of the sign opaque, while the lettering and logo of the static portion of the sign will be illuminated. The current sign does not provide this opaque background. The applicant could have requested a reface of the existing sign, which would be less compliant with Land Development Code guidelines. Also, the proposed sign is a reduction in height and size than the existing sign; and

Waiver from Land Development Section 8.2.1.D.6 to allow a changing image sign to be closer than 300 feet to residential properties:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as the sign must comply with the requirement that the image change no more frequently than once per twenty seconds and be equipped with automatic dimming technology. The sign is also setback from the main road and the subject property has a large

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street frontage. The vegetation and parking location also lessen the impact of the proposed sign, and

WHEREAS, the Board further finds that the waiver will not violate specific guidelines of Cornerstone 2020 as Cornerstone 2020 states that signs should be compatible with the form district pattern and contribute to the visual quality of their surroundings. Promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety. Encourage signs that are integrated with or attached to structures wherever feasible; limit freestanding signs to monument style signs unless such design would unreasonably compromise sign effectiveness. Give careful attention to signs in historic districts, parkways, scenic corridors, design review districts and other areas of special concern. These guidelines are not violated because the proposed sign is a monument style sign and it is located on a frontage road behind a number of trees, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as there is no location on the property where a sign could be reasonably placed that is not within 300 feet of residential properties. The subject property is also an institutional use (school) with the existing buildings being setback further than what is allowed in the form district, 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 place the sign in a location that would not be visible from the road in order to comply with the regulation; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1080 does hereby **APPROVE** Waiver from Land Development Code Section 8.2.1.D.4.a to allow the changing image panel of a sign to exceed 30% of the total area of the sign, and Waiver from Land Development Code Section 8.2.1.D.6 to allow a changing image sign to be closer than 300 feet to residential properties.

The vote was as follows:

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

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02:04:09 Staff and Board Members held a discussion regarding issues that could be addressed through the Board's By-laws. Mr. Haberman stated we have been having issues with neighborhood meetings. Mr. Haberman stated the Code gives very broad direction on how to hold a neighborhood meeting, and the only things that it really gets specific with is who gets notified of the neighborhood meeting and you have to do it ninety days before you formally file, and that's about it. Mr. Haberman stated absent of changing the Code, the Board could add some more detail to their By-laws if they think it's necessary. Mr. Haberman stated he was just going to bring up problems that citizens have brought up and the Board can decide to agree if those are problems that need more definition in their By-laws.

Mr. Haberman stated the first relates to location. Mr. Haberman stated right now, you could have your neighborhood meeting anywhere; there's nothing in any document that says you even have to have it in Jefferson County or the State of Kentucky. Mr. Haberman stated no one has really been that abusive with that, but we have had a few that have been two or three miles away from the subject property, passing probably thirty other places where they could have had it. Mr. Haberman stated they're choosing coffee shops, so he's not saying there's anything malicious with these choices, but that's just something for the Board's feedback to start. Mr. Haberman stated he would just go through these issue by issue, this is just a discussion, and he doesn't really have any suggestions at this point. Chair Fishman stated she's hearing from people is that it needs to be within the area, or as close as they can to where they are. Vice Chair Young agreed that it should be within so many miles of the subject property. Staff and Board Members discussed this issue.

Mr. Haberman stated the next one is date. Mr. Haberman stated right now we have no exclusions on date. Mr. Haberman stated right now you could have one on New Year's Eve, and someone actually proposed that. Mr. Haberman stated some people are concerned about having them on weekends, and there are pros and cons. Staff and Board Members discussed.

Mr. Haberman stated the next issue is time. Mr. Haberman stated the Planning Commission has in their by-laws the time that you should start the meeting by. Mr. Haberman reminded the Board Members that right now there are no requirements. Staff and Board Members discussed.

Mr. Haberman stated the next issue we have received complaints about is the conditions of the meeting space. Mr. Haberman stated what happened with one is they had it outdoors on a ninety degree day with no seating. Staff and Board Members discussed.

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STAFF/BOARD DISCUSSION

Mr. Haberman stated the final thing is enforcement of violating conditions of a neighborhood meeting. Staff and Board Members discussed possible options (see recording for details of this discussion).

02:27:06 Dante St. Germain introduced Zach Schwager. Zach was recently promoted to Planner I, and will taking Dante's place on the BOZA team. Emily stated Dante will still be with Planning & Design, and she has been promoted to Planner II.

02:29:08 Meeting was recessed.

02:29:40 Meeting was reconvened.

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CASE NUMBER 18CUP1072

Request:	Conditional Use Permit to allow a mini-warehouse facility in a C-2 zoning district
Project Name:	Highland Cubes
Location:	1300 & 1306 Bardstown Road
Owner/Applicant:	Jeff Sleadd
Representative:	Jennifer Caummisar-Kern
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Jon E. Crumby, Planning & Design Coordinator

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

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

Agency Testimony:

02:33:15 Jon Crumby presented the case and showed a Powerpoint presentation. Mr. Crumby 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

Jeff Sleadd, 123 Travois Ln., Louisville, KY 40207

Jennifer Caummisar-Kern, 2780 Jefferson Centre Way, Suite 204, Jeffersonville, IN 47130

Summary of testimony of those in favor:

02:40:20 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).

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03:11:56 Jeff Sleadd spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

03:23:18 Jennifer Caummisar-Kern spoke in favor of the request in regard to traffic studies. Ms. Caummisar-Kern responded to questions from the Board Members (see recording for detailed presentation).

03:26:18 Chair Fishman swore in all parties who were present to speak in opposition.

The following spoke in opposition of the request:

Kristen Millwood, 1612 Beechwood Ave., Louisville, KY 40204
Emma Aprile, 1806 Rosewood Ave., Louisville, KY 40204
Carol Besse, 1262 Willow Ave., Louisville, KY 40204
Brian Caudill, 1647 Birchwood Ave., Louisville, KY 40204
Andrew Rosenthal, 1806 Rosewood Ave., Louisville, KY 40204
Margaret Steptoe, 1705 Windsor Pl., Louisville, KY 40204
Councilman Brandon Coan, 601 W. Jefferson, 3rd Fl., Louisville, KY 40204
John Addington, 1614 Rosewood Ave., Louisville, KY 40204
Sanela Graziose, 1613 Rosewood Ave., Louisville, KY 40204
Ray Brundige, 1718 Edgeland Ave., Louisville, KY 40204
Natalie Snyder, 1811 Edenside Ave., Louisville, KY 40204
Lee Hinson-Hasty, 1805 Windsor Pl., Louisville, KY 40204
Peter Allison, 1313 Bellwood Ave., Louisville, KY 40204
Stewart McCollam, 1926 Richmond Dr., Louisville, KY 40205
Judy Munro-Leighton, 1312 Willow Ave., Louisville, KY 40204
Sarah Almy, 1611 Rosewood Ave., Louisville, KY 40204
Jessica Kingsley, 1623 Rosewood Ave., Louisville, KY 40204
Douglas Meisel, 1623 Rosewood Ave., Louisville, KY 40204
Mark Lieberfreund, 1219 Everett Ave., Louisville, KY 40204

Summary of testimony of those in opposition:

03:27:52 Kristen Millwood, President of the Tyler Park Neighborhood Association, spoke in opposition of the request. Ms. Millwood stated the proposed use is not in keeping with the character of the area. Ms. Millwood stated many uses are allowed in this zone; the proposed use is not allowed, nor would it be beneficial to the area. Ms. Millwood stated the Staff Report indicates there were sixty people present at the neighborhood meeting and she was there

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and there was closer to one hundred people (see recording for detailed presentation).

03:30:12 Emma Aprile spoke in opposition of the request. Ms. Aprile requested the Board reject this Conditional Use Permit because it is not compatible with the neighborhood's designation as a Traditional Neighborhood form district, and Bardstown Road's designation of being a Traditional Marketplace Corridor (see recording for detailed presentation).

03:36:56 Carol Besse spoke in opposition of the request. Ms. Besse stated she owns Carmichael's Book Store and Carmichael's Kids. Ms. Besse stated she has been in business on Bardstown Road for more than forty years. Ms. Besse stated she feels this is an inappropriate use for this type of neighborhood. Ms. Besse responded to questions from the Board Members (see recording for detailed presentation).

03:41:13 Brian Caudill spoke in opposition of the request. Mr. Caudill stated he is a member of the Tyler Park Neighborhood Association and they voted unanimously to not support this project, mainly because it is not in keeping with the character of the area (see recording for detailed presentation).

03:42:24 Andrew Rosenthal spoke in opposition of the request. Mr. Rosenthal stated his concerns are lighting, dumpster location, and egress from the property. Mr. Rosenthal stated the week of August 6th workers were on site throwing construction debris from the second story windows. Mr. Rosenthal stated the sidewalk and the area around the dumpster in the back have been littered since construction began, despite being cited by the city on August 16th (see recording for detailed presentation).

03:46:36 Margaret Steptoe spoke in opposition of the request. Ms. Steptoe stated she is here simply to support the Tyler Park Neighborhood Association's position on this project, and she opposes this project (see recording for detailed presentation).

03:47:05 Councilman Brandon Coan spoke in opposition of the request. Councilman Coan stated his comments are straightforward regarding the Standards in the considerations for the review of the Conditional Use Permit. Councilman Coan stated he vehemently disagrees with a lot of what's in there. Councilman Coan stated he will grant that the necessary public facilities exist, because as has been mentioned over and over again these are existing structures. Councilman Coan stated the fact that these are existing structures

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doesn't mean that makes mini-warehouse use consistent with the Comprehensive Plan, nor does it make this use compatible with surrounding land uses and the general character of the area. Councilman Coan stated the only other real substantive analysis in there is that there is an unknown retail use. Councilman Coan stated he finds very concerning that Mr. Bardenwerper actually pulled his commitment from tonight totally; maybe there will be, maybe there won't be. Councilman Coan stated this is over 19,000 square feet, and 85.8% - 16,310 square feet is for storage use in the plan, and it could be more apparently. Council Coan stated the retail use is 5.3% of the overall property; the Airbnb unit is 4.6%; that's certainly not enough to justify that this is a mixed use boutique project – this is a mini-warehouse project. Councilman Coan stated one of the other considerations for the Board's determination tonight is compliance with the specific standards required for the CUP, and as noted the applicant is asking for the equivalent of waivers from Items B, G, and it appears to be from Item E as well that talks about no mixing of retail uses and warehouse uses and obviously there must be a good reason not to mix them. Councilman Coan stated in G it talks about how big these structures should be and there must be good reasons why they're not supposed to have massive buildings in C2 Traditional Form Districts full of warehouse space and there must be good reasons why there's a 30 foot buffer as opposed to a zero foot buffer. Councilman Coan stated finally the last Standard that the Board is asked to apply is "any other matter that the Board may deem appropriate or relevant to the specific proposal", and he doesn't think they can ignore the basic overwhelming sentiment of people that live in this community, that own property in this community, that work in this community that are opposed to the project. Councilman Coan stated there are nothing but people here that oppose the project, there's nothing in the case file but letters from people that oppose the project, as the people's elected representative he opposes the project and he asks the Board to reject the project. Councilman stated a final word for the applicant, he doesn't think anybody appreciates the soft threat of "we can put whatever C2 use we want there" (see recording for detailed presentation).

03:52:26 John Addington spoke in opposition of the request. Mr. Addington stated he's about activating the street and trying to have their Traditional Marketplace atmosphere, pedestrian friendly businesses to be reinforced and invigorated. Mr. Addington stated this Conditional Use if granted would just shut the door for their dreams of having a flagship corner lot with a reasonable neighborhood friendly, pedestrian friendly Marketplace Corridor type use. Mr. Addington stated the Bardstown Overlay review was mostly about architectural details, building aesthetics, not about land use, and it's his hope that the Board will deal with that matter (see recording for detailed presentation).

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03:56:04 Sanela Graziose spoke in opposition of the request. Ms. Graziose stated she opposes the Conditional Use Permit and the precedent it sets because it simply is not compatible with the Traditional Corridor they all chose to make their home (see recording for detailed presentation).

03:57:12 Ray Brundige spoke in opposition of the request. Mr. Brundige stated the Neighborhood Association tried to get ahold of this building and they were told they couldn't even inspect it; that was just before Sterling got the deal. Mr. Brundige stated one thing to consider is the threat of a storage unit against the brick and mortar that is the lifeblood of Bardstown Road. Mr. Brundige stated another thing is that he doesn't know that the applicant plans to hold this very long (see recording for detailed presentation).

04:01:34 Natalie Snyder spoke in opposition of the request. Ms. Snyder stated she just wanted to state her opposition and she really doesn't believe this use is a fit for the neighborhood (see recording for detailed presentation).

04:02:08 Lee Hinson-Hasty spoke in opposition of the request. Mr. Hasty stated he walks his dog in this neighborhood, and he and his daughter like to visit the neighborhood businesses. Mr. Hasty stated this doesn't fit in the neighborhood. Mr. Hasty stated within a mile and a half there are seven other storage facilities available (see recording for detailed presentation).

04:07:01 Peter Allison spoke in opposition of the request. Mr. Allison he is the second closest adjoining property. Mr. Allison stated they appreciate the city attempting to convert a rather under-utilized building into positive commercial use and they're hoping such a thing can be done and be compatible with their neighborhood. Mr. Allison stated this is not a question of people not understanding what they're doing; it is a question of fit. Mr. Allison stated mini-storage simply does not fit here (see recording for detailed presentation).

04:09:12 Stewart McCollam spoke in opposition of the request. Mr. McCollam stated he does not believe this is a proper use of this building and will only bring a limited number of low-wage jobs. Mr. McCollam stated it does not feel like they've addressed how many cars can come in and out at one time for boutique storage or during peak hours (see recording for detailed presentation).

04:10:13 Judy Munro-Leighton spoke in opposition of the request. Ms. Leighton stated she wanted to thank Councilman Coan for his comments and she supports them, and also the Tyler Park Neighborhood (see recording for detailed presentation).

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04:10:46 Sarah Almy spoke in opposition of the request. Ms. Almy stated this doesn't fit into the Traditional Marketplace Corridor. Ms. Almy stated it's not a necessity, they have plenty of storage bins all over the place. Ms. Almy stated Bardstown Road at that particular intersection is very congested and the turn in to that building is a narrow driveway. Ms. Almy stated she thinks it will have a negative impact (see recording for detailed presentation).

04:13:43 Jessica Kingsley spoke in opposition of the request. Ms. Kingsley stated she wanted to come and speak tonight because she thinks zoning boards are often overlooked as incredible and invaluable parts of how a city decides what its future is going to be, and what a city is going to look like, and how a city is going to use the incredible resources that it has. Ms. Kingsley stated these buildings are resources for their community; they bring character to their neighborhood and they represent some of the very best architecture that the Highlands have to offer. Ms. Kingsley stated if this is turned into a mini-storage, that does not keep in the spirit of what the Highlands bring and what the Highlands hold for so many people. Ms. Kingsley stated she looked at 143 houses all over Louisville before she decided to live here and it was a decision she made very carefully. Ms. Kingsley stated she believes this project will come at a detriment to those who are living there (see recording for detailed presentation).

04:16:08 Douglas Meisel spoke in opposition of the request. Mr. Meisel stated he wanted to state his support for the Tyler Park Neighborhood Association and his opposition to the permit. Mr. Meisel stated he thinks this is a beautiful building and he couldn't imagine a more useless purpose or use than to use this as a storage facility (see recording for detailed presentation).

04:16:54 Mark Lieberfreund spoke in opposition of the request (see recording for detailed presentation).

REBUTTAL:

04:18:04 Bill Bardenwerper spoke in rebuttal. Mr. Bardenwerper reviewed many other uses this property could be used for without further public input or Board review. Mr. Bardenwerper stated the traffic is not really a factor here. Mr. Bardenwerper responded to some of the issues raised by those in opposition. (see recording for detailed presentation).

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04:30:05 Jeff Sleadd responded to questions from the Board Members (see recording for detailed presentation).

04:32:00 Meeting was recessed.

04:32:17 Meeting was reconvened.

04:32:20 Board Members' deliberation

04:48:16 A motion was made by Member Buttorff, seconded by Member Howard, in Case Number 18CUP1072 to **APPROVE** Conditional Use Permit to allow mini-warehouses in a C-2 zoning district.

The motion FAILED by the following vote:

Yes: Members Buttorff, Turner, and Howard

No: Member Leanhart, Vice Chair Young, and Chair Fishman

04:50:34 A motion was made by Vice Chair Young, seconded by Member Leanhart, in Case Number 18CUP1072 to **DENY** Conditional Use Permit to allow mini-warehouses in a C-2 zoning district.

The motion FAILED by the following vote:

Yes: Member Leanhart, Vice Chair Young, and Chair Fishman

No: Members Buttorff, Turner, and Howard

04:51:25 Paul Whitty, Legal Counsel, stated there has been a tie vote – twice, so we revert to Robert's Rules and under Robert's Rules when a proposition has a tie vote, the proposition **FAILS** (see recording for detailed presentation).

04:52:04 The Board Members briefly discussed the request to try and determine if a majority vote could be obtained (see recording for detailed presentation).

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04:54:30 Mr. Whitty stated he thinks the Board should cut off discussion; they've voted twice and heard all the evidence.

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The meeting adjourned at approximately 9:10 p.m.

Chair

Secretary