

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

May 18, 2020

A meeting of the Louisville Metro Board of Zoning Adjustment was held on May 18, 2020 at 1:00 p.m. online via Cisco Webex Video Teleconferencing.

Members Present:

Lula Howard, Chair
Kimberly Leanhart, Vice Chair
Richard Buttorff, Secretary
LiAndrea Goatley
Lindsey Jagoe
Michael Seale
Lester Turner, Jr.

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Reverman, Planning & Design Assistant Director
Brian Davis, Planning & Design Manager
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Zach Schwager, Planner I
Nia Holt, Planner I
Jon Crumbie, Planning & Design Coordinator
Laura Ferguson, Legal Counsel
John Carroll, Legal Counsel
Sue Reid, Management Assistant

On the recommendation of the Louisville Metro Department of Public Health & Wellness regarding congregate events and social distancing, and as permitted by Commonwealth of Kentucky Senate Bill 150, the regularly scheduled May 18, 2020 Board of Zoning Adjustment meeting was held online.

The following cases were heard:

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MAY 4, 2020 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:10:58 On a motion by Member Turner, seconded by Member Goatley, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the May 4, 2020 Board of Zoning Adjustment online meeting.

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Jagoe, Seale, Vice Chair Leanhart, and Chair Howard

BOARD OF ZONING ADJUSTMENT MINUTES
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BUSINESS SESSION

CASE NUMBER 20-VARIANCE-0009

Request:	Request to waive one year resubmittal requirement for denied variance
Project Name:	Watterson Trl Variance
Location:	8101 Watterson Trail
Owner/Applicant:	Terry Hill
Jurisdiction:	Louisville Metro
Council District:	11 – Kevin Kramer
Case Manager:	Nia Holt, Planner I

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

Agency testimony:

00:13:24 Chris French presented the case on behalf of the Case Manager and showed photographs of the property. Mr. French responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition of the request:

No one spoke.

00:20:20 On a motion by Member Goatley, seconded by Member Jagoe, the following resolution, based upon the testimony heard today, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0009 does hereby **APPROVE** Request to waive one year resubmittal requirement for denied variance.

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BUSINESS SESSION

CASE NUMBER 20-VARIANCE-0009

The vote was as follows:

Yes: Members Goatley, Jagoe, Vice Chair Leanhart, and Chair Howard

No: Member Buttorff

Abstain: Member Seale

Not Voting: Member Turner

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0018

Request:	Variance to allow a structure to encroach into the front yard setback on an infill lot
Project Name:	Hofelich Variance
Location:	9806 Hofelich Lane
Owner(s):	Mary Knight
Applicant:	Alan Passmore
Jurisdiction:	Louisville Metro
Council District:	20 – Stuart Benson
Case Manager:	Nia Holt, 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:

00:23:27 Chris French presented the case on behalf of the Case Manager and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

00:29:27 Nia Holt showed the minor plat and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Alan Passmore, representative for 9806 Hofelich Lane, Louisville, KY 40291

Summary of testimony of those in favor:

00:35:28 Alan Passmore spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 20-VARIANCE-0018

00:38:51 Nia Holt explained the reason for the variance request (see recording for detailed presentation).

00:39:37 Alan Passmore responded to questions from the Board Members (see recording for detailed presentation).

00:41:19 Nia Holt responded to questions from Laura Ferguson, Legal Counsel. Ms. Ferguson responded to questions from the Board Members (see recording for detailed presentation).

00:43:10 Nia Holt responded to questions from the Board Members (see recording for detailed presentation).

The following Spoke in opposition of the request:

No one spoke.

00:45:02 Board Members' deliberation

00:56:41 On a motion by Member Buttorff, seconded by Member Goatley, the following resolution, based upon the testimony heard today, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 20-VARIANCE-0018 to the June 1, 2020 Board of Zoning Adjustment meeting.

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Jagoe, Seale, Vice Chair Leanhart, and Chair Howard

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0026

Request:	Variance to allow a principle structure to encroach into the side yard setback
Project Name:	Camp Street Variance
Location:	426 Camp Street
Owner(s):	Danielle Shaw
Applicant:	Gregg Kelley
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Zach Schwager, 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:

00:58:20 Chris French presented the case on behalf of the Case Manager 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:

Gregg Kelley, 320 Heritage Hills Pkwy., Shepherdsville, KY 40165

Summary of testimony of those in favor:

01:05:09 Gregg Kelley spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:11:09 Mr. Kelley stated he could not hear anyone speaking. Mr. Haberman suggested the Board hear the next item on the agenda and then return to this case to allow Mr. Kelley time to resolve any technical issues (see recording for detailed presentation).

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CASE NUMBER 20-VARIANCE-0026

01:12:35 Zach Schwager stated he would contact Mr. Kelley and let him know (see recording for detailed presentation).

01:57:07 Joe Haberman stated that Mr. Kelley was joined in the meeting and had indicated he was finished speaking (see recording for detailed presentation).

01:59:06 Member Buttorff repeated his testimony regarding the overhang intruding over the building line. The Board Members discussed this (see recording for detailed presentation).

The following spoke in opposition of the request:
No one spoke.

02:03:08 Board Members' deliberation

02:03:37 On a motion by Member Buttorff, seconded by Member Goatley, the following resolution, based upon the Standard of Review and Staff Analysis, the applicant's justification, and the testimony heard today, 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, because the proposed addition will be constructed to comply with all building codes, including fire codes; however, staff is concerned that the variance could adversely affect the adjacent property owner because construction and maintenance of the structure may require encroachment onto the neighboring property. The Board finds that the applicant adequately addressed this Standard of Review, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as, even though, the addition is taller than other structures on the block, there are other structures that are the same height. Further, it meets the infill standards in the Land Development Code in regard to height of structures on the same side of the street, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the addition will be constructed to comply with all building codes, and

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CASE NUMBER 20-VARIANCE-0026

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed addition is the same distance away from the property line as the existing structure and private yard area is maintained, 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 20-VARIANCE-0026 does hereby **APPROVE** Variance from Land Development Code Section 5.1.10.F to allow a principle structure to encroach into the required side yard setback (**West Side Yard Requirement 2.5 ft., Request 0 ft., Variance 2.5 ft.**).

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Jagoe, Seale, and Chair Howard
Recused: Vice Chair Leanhart

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PUBLIC HEARING

CASE NUMBER 20-CUP-0048

Request:	Conditional use permit for a private institutional use
Project Name:	St. Patrick Catholic Church
Location:	1000 N. Beckley Station Road
Owner:	Roman Catholic Bishop of Louisville
Applicant:	Patrick Blackburn – VBN Architects
Jurisdiction:	Louisville Metro
Council District:	19 – Anthony Piagentini
Case Manager:	Zach Schwager, 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:

01:13:52 Chris French stated this case would be heard on June 1, 2020 due to a notice error (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition of the request:

No one spoke.

The Louisville Metro Board of Zoning Adjustment, by general consensus, **CONTINUED** Case Number 20-CUP-0048 to the June 1, 2020 Board of Zoning Adjustment meeting.

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PUBLIC HEARING

CASE NUMBER 20-CUP-0044

Request:	Conditional Use Permit to allow a private institutional use
Project Name:	Assumption High School Campus Building
Location:	2169 Tyler Lane
Owner/Applicant:	Assumption High School, Inc.
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Jon E. Crumbie, 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.

01:15:45 Chris French presented the case on behalf of the Case Manager and showed a Powerpoint presentation. Mr. French read into the record documentation received after the deadline (see recording for detailed presentation).

The following spoke in favor of the request:

Mike Hill, 503 Washburn Ave., Louisville, KY 40222

Mary Lang, 2170 Tyler Lane, Louisville, KY 40205

Jake Michul, 300 W. Vine Street, Suite 1200, Lexington, KY 40502

Summary of testimony of those in favor:

01:21:20 Mike Hill spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

01:31:52 Mary Lang spoke in favor of the request (see recording for detailed presentation).

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CASE NUMBER 20-CUP-0044

01:32:56 Jake Michul stated he was an attorney for the applicant and is available for any questions (see recording for detailed presentation).

01:33:21 Mike Hill responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

Leslie Cissell, 2156 Gladstone Ave., Louisville, KY 40205

Summary of testimony of those in opposition:

01:35:00 Leslie Cissell spoke in opposition of the request. Ms. Cissell outlined four points of opposition, noise, parking, landscaping, and specificity of use regarding the residence (see recording for detailed presentation).

The following spoke neither for nor against the request:

Honi Goldman, 2727 Lamont Road, Louisville, KY 40205

Summary of testimony of those neither for nor against:

01:44:59 Honi Goldman spoke neither for nor against the request (see recording for detailed presentation).

REBUTTAL:

01:48:18 Mike Hill spoke in rebuttal (see recording for detailed presentation).

01:51:18 Mary Lang spoke in rebuttal (see recording for detailed presentation).

01:54:17 **Board Members' deliberation**

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CASE NUMBER 20-CUP-0044

01:54:41 On a motion by Member Buttorff, seconded by Vice Chair Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony heard today, and the applicant's justification, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal meets all applicable policies of the Comprehensive Plan, and

WHEREAS, the Board further finds that when appropriately managed, the proposed use is compatible with surrounding development and land uses, 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, and

WHEREAS, the Board further finds that:

Private institutional uses, except for such uses specifically regulated elsewhere in this LDC, may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N zoning districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

- A. Except in the R-R zoning district, all structures, except fencing, and all off-street parking shall be at least 30 feet from any property line adjacent to an existing residential use or residential zoning district. In the R-R zoning district all structures, except fencing, shall be at least 150 feet from any property line and all off-street parking shall be at least 30 feet from any property line. **Applicant's response: All existing structures and parking spaces are located more than 30' from any property line that is adjacent to residentially used or zoned private property.**
- B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated. **Applicant's response: The granting of this Conditional Use Permit will not generate any additional traffic that is not already travelling to and from the Assumption High School campus. The existing nine parking spaces on the property may be utilized by Assumption staff members while students attending classes in the building will park in the main Assumption parking lot across Tyler Lane and cross the street in the existing crosswalk.**

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- C. Off-street parking not located within a driveway shall be located to the side or rear of the building(s). The number of required off-street parking spaces shall be determined by the Planning Director in consultation with the Director of Public Works based on the standards for the closest comparable use and on the particular parking demand and trip generation characteristics of the proposed use. **Applicant's response: The nine existing parking spaces are located behind the building and are not visible from Tyler Lane or Bardstown Road. The Director of Planning has determined that the existing parking spaces will be enough to adequately serve the proposed use on the property.**
- D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99). **Applicant's response: All activities that will occur on the property will be compliant with the Metro Noise Ordinance.**
- E. The Board of Zoning Adjustment may set hours of operation for the institutional use in order to minimize potential negative impacts on surrounding residential properties. **Applicant's response: The majority of the activity occurring within the building will occur during regular school hours. However, it is possible that the space could be used occasionally in the late afternoon or early evening hours for school related activities. The building will most likely be used from 7 a.m.-5 p.m. (occasionally until 8 or 9 p.m.) on weekdays, with occasional weekend use;** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment, in Case Number 20-CUP-0044, does hereby **APPROVE** Conditional Use Permit to allow a private institutional use, **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a private institution until further review and approval by the Board.

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The vote was as follows:

**Yes: Members Buttorff, Turner, Goatley, Jagoe, Seale, Vice Chair Leanhart,
and Chair Howard**

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01:57:54 Chair Howard recalled Case Number 20-VARIANCE-0026. Please see page 8 of these minutes for the conclusion of that case.

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The meeting adjourned at approximately 3:05 p.m.

Chair

Secretary