

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

**September 14, 2020**

A meeting of the Louisville Metro Board of Zoning Adjustment was held on September 14, 2020 at 1:00 p.m. online via Cisco Webex Video Teleconferencing.

**Members Present:**

Lula Howard, Chair  
Kimberly Leanhart, Vice Chair  
Richard Buttorff, Secretary  
Lindsey Jagoe  
Michael Seale  
Sharon Bond

**Staff Members Present:**

Emily Liu, Planning & Design Director  
Joe Reverman, Planning & Design Assistant Director  
Joe Haberman, Planning & Design Manager  
Brian Davis, Planning & Design Manager  
Chris French, Planning & Design Supervisor  
Jon Crumbie, Planning & Design Coordinator  
Lacey Gabbard, Planner I  
Zach Schwager, Planner I  
Jay Lockett, Planner I  
Nia Holt, Planner I  
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 September 14, 2020 Board of Zoning Adjustment meeting was held online.

The following cases were heard:

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**September 14, 2020**

**August 31, 2020 BOARD OF ZONING ADJUSTMENT MEETING MINUTES**

**00:06:45** On a motion by Member Seale, seconded by Member Jagoe, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the August 31, 2020 Board of Zoning Adjustment online meeting.

**The vote was as follows:**

**Yes: Members Buttorff, Jagoe, Seale, Bond, and Chair Howard**  
**Abstain: Vice Chair Leanhart**

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**September 14, 2020**

**PUBLIC HEARING**

**CASE NUMBER 20-VARIANCE-0045**

Request:	Variances to allow the building to encroach into the required front and rear setbacks, and to allow the building to exceed the maximum height
Project Name:	Gray and Clay
Location:	708-726 E Gray Street
Owner(s):	LDG Land Holdings, LLC
Applicant:	Michael Gross, LDG Development, LLC
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Lacey Gabbard, AICP, 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 5<sup>th</sup> 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:**

**00:08:07** Lacey Gabbard presented the case and showed a Powerpoint presentation. Ms. Gabbard responded to questions from the Board Members (see recording for detailed presentation).

**The following spoke in favor of the request:**

Cliff Ashburner, 101 S. Fifth Street, Louisville, KY 40202  
Kelli Jones, 608 S. Third Street, Louisville, KY 40202

**Summary of testimony of those in favor:**

**00:15:39** Cliff Ashburner spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

**00:23:42** Kelli Jones spoke in favor of the request regarding consolidating the lots. Ms. Jones stated she would deliver the latest plan to Ms. Gabbard (see recording for detailed presentation).

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**PUBLIC HEARING**

**CASE NUMBER 20-VARIANCE-0045**

**00:27:06** Joe Haberman stated he had a speaker form from Mr. Michael Gross. Mr. Gross stated he was available to answer any questions (see recording for detailed presentation).

**The following spoke in opposition of the request:**

No one spoke.

**00:28:26 Board Members' deliberation**

**00:29:20** On a motion by Member Jagoe, seconded by Vice Chair Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

**Variance from Table 5.22 to allow buildings to encroach into the required front and rear setbacks:**

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect the public health, safety or welfare, as there are no known threats in allowing the proposed building to be closer to the existing sidewalk. Placing buildings closer to the street is consistent with the goals and objectives of Plan 2040, as it creates a more appealing streetscape, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity because the associated site to the north already has an approved variance for the structure to encroach into the setbacks on all sides of the building. Additionally, it appears that several buildings in the vicinity of the subject site are built to, or close to, the setback, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because there are no known threats in allowing the proposed building to be located closer to the existing sidewalk. There are no issues with sight triangles since the subject site is not located on the corner, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because there are existing structures in the vicinity of the subject site that appear to be encroaching into the setbacks, and the proposed structure to the north of the subject site has an approved

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**PUBLIC HEARING**

**CASE NUMBER 20-VARIANCE-0045**

variance to encroach into the setbacks on all sides. Additionally, Plan 2040 supports buildings being built out to the property line; and

**Variance from Table 5.22 to allow the building to exceed the maximum 45 foot height by 10 feet:**

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect the public health, safety or welfare, as there are no known threats in allowing the proposed building to be taller than permitted, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposed building will only be 10 feet taller than the maximum building height of 45 feet permitted by the Land Development Code. Additionally, the associated site to the north has an identical, approved variance to exceed the maximum allowed building height of 45 feet by 10 feet, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because there are no known threats in allowing the proposed building to exceed the maximum height, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the associated site to the north has an identical, approved variance to exceed the maximum allowed building height of 45 feet by 10 feet. Additionally, there is a nearby structure, St. Martin of Tours Catholic Church at 635 S. Shelby Street, which appears to exceed 45 feet in height; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0045 does hereby **APPROVE** Variance from Table 5.22 to allow buildings to encroach into the required front and rear setbacks (**Requirement 25 ft., Request 0 ft., Variance 25 ft.**), and Variance from Table 5.22 to allow the building to exceed the maximum 45 foot allowed height by 10 feet (**Requirement 45 ft., Request 55 ft., Variance 10 ft.**).

**The vote was as follows:**

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

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**PUBLIC HEARING**

**CASE NUMBER 20-VARIANCE-0064**

Request:	Variance to allow an addition to an existing structure to encroach into the required front yard setback
Project Name:	Rock Creek Drive Variance
Location:	3216 Rock Creek Drive
Owner:	Francis & Alice Fensterer
Applicant:	Omar Tatum
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
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 5<sup>th</sup> 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:**

**00:32:10** Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see staff report and recording for detailed presentation).

**The following spoke in favor of the request:**

Omar Tatum, 3617 St. Germaine Court, Louisville, KY 40207

**Summary of testimony of those in favor:**

**00:39:08** Omar Tatum spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

**The following spoke in opposition of the request:**

No one spoke.

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**PUBLIC HEARING**

**CASE NUMBER 20-VARIANCE-0064**

**00:42:24**     **Board Members' deliberation**

**00:43:38**     On a motion by Vice Chair Leanhart, seconded by Member Jagoe, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare, because the proposed addition must be constructed to comply with all building codes, including fire codes, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposed addition would slightly encroach into the infill front yard setback. There is a solid street wall along Rock Creek Drive, however, there are variations, and

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

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed addition would only slightly encroach into the infill front yard setback; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0064 does hereby **APPROVE** Variance from Land Development Code Section 5.1.12.B.2.e.i.1 to allow a principle structure to encroach into the required infill front yard setback (**Requirement 34 ft., Request 30.1 ft., Variance 3.9 ft.**).

**The vote was as follows:**

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

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**PUBLIC HEARING**

**CASE NUMBER 20-VARIANCE-0066**

Request:	Variance to Exceed Maximum 45' Height by up to 4.75'
Project Name:	Hensley Hotel
Location:	1125 and 1131 Bardstown Rd
Owner:	Utopia Ventures, LLC.
Applicant:	Utopia Ventures, LLC.
Representative:	Jeff Rawlins
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Jay Lockett, AICP, 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 5<sup>th</sup> 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:**

**00:45:46** Jay Lockett presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

**The following spoke in favor of the request:**

Jeff Rawlins, 213 S. Shelby St., Louisville, KY 40202  
Dustin Hensley, 1219 Garvin Place, Louisville, Ky (Mr. Hensley was sworn in, but did not speak)

**Summary of testimony of those in favor:**

**00:49:04** Jeff Rawlins spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

**The following spoke in opposition of the request:**

No one spoke.



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**PUBLIC HEARING**

**CASE NUMBER 20-VARIANCE-0066**

**00:53:22      Board Members' deliberation**

**00:53:59**      On a motion by Vice Chair Leanhart, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect public health, safety, or welfare as the proposed variance does not impede the safe movement of pedestrians or vehicles, as the development will still be a significant improvement over current conditions, including pedestrian and vehicular safety, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity as there are a mix of building heights and commercial designs within the area, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the development will follow all building and safety requirements, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as there are a range of building heights and site designs along the commercial corridor. The variance will allow for a previously developed site to be redeveloped into a commercial use that complements other uses in the area; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0066 does hereby **APPROVE** Variance to exceed the maximum 45 foot height by up to 4.75 feet.

**The vote was as follows:**

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

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**PUBLIC HEARING**

**CASE NUMBER 20-VARIANCE-0075**

Request:	Variance to allow a principle structure to encroach into the required side yard setbacks
Project Name:	Cooper Variance
Location:	509 Cooper Street
Owner/Applicant:	Jamie Barnes
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
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 5<sup>th</sup> 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:**

**00:56:06** Nia Holt began to present the case, however, she experienced technical difficulties. Therefore, Chris French presented the case and showed a Powerpoint presentation. Ms. Holt regained connectivity and responded to questions from the Board Members (see staff report and recording for detailed presentation).

**The following spoke in favor of the request:**

Jamie Barnes, 1723 Halifax Drive, Louisville, KY 40245

**Summary of testimony of those in favor:**

**01:02:16** Jamie Barnes spoke in favor of the request and responded to questions from the Board Members. The Board Members, staff, and Mr. Barnes discussed whether the overhang was within the property line (see recording for detailed presentation).

**The following spoke in opposition of the request:**

No one spoke.

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**PUBLIC HEARING**

**CASE NUMBER 20-VARIANCE-0075**

**01:19:54**     **Board Members' deliberation**

**01:20:24**     On a motion by Member Seale, seconded by Vice Chair Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare, because the proposed addition must be constructed to comply with all building codes, including fire codes. The applicant has obtained a letter from the affected adjacent property owner, because construction and maintenance of the structure may require encroachment onto the neighboring property, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposed addition will be of similar design to other structures in the area, and

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

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed addition will be a same distance from the side property lines as the existing structure; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0075 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 (**South Side Yard Requirement 2.25 ft., Request 0 ft., Variance 2.25 ft.**) **SUBJECT** to the following Condition of Approval.

Condition of Approval:

1. A survey of the Southern property line shall be completed prior to the commencement of construction activity and shall be staked in the field. No projections from the façade or building foundation shall cross the property line; any such projections shall be accommodated by stepping back the proposed structure from the property line.

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**PUBLIC HEARING**

**CASE NUMBER 20-VARIANCE-0075**

**The vote was as follows:**

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

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**PUBLIC HEARING**

**CASE NUMBER 20-VARIANCE-0078**

Request:	Variance to allow a private yard area to be less than the required 30% of the area of a lot
Project Name:	Wentworth Variance
Location:	3029 Wentworth Avenue
Owner(s):	Diane Robl & Margaret Schmidt
Applicant:	Beverly Baker
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
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 5<sup>th</sup> 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:**

**01:22:50** Nia Holt presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

**The following spoke in favor of the request:**

Beverly Baker, 230 Albany Ave., Louisville, KY 40206

**Summary of testimony of those in favor:**

**01:26:43** Beverly Baker spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

**The following spoke neither for nor against the request:**

No one spoke.

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**PUBLIC HEARING**

**CASE NUMBER 20-VARIANCE-0078**

**01:30:22     Board Members' deliberation**

**01:30:46**     On a motion by Vice Chair Leanhart, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the structure will be constructed to comply with all building codes, including fire codes, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity, as the proposed enclosed porch will be of a similar design as the existing structures in the surrounding area, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed will be constructed 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 the request is less than 19% reduction of the required private yard area. There is additional open space is available along the East side yard; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0078 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 1890 sq. ft., Request 1331 sq. ft., Variance 559 sq. ft.**).

**The vote was as follows:**

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

**01:32:25     Meeting was recessed.**

**01:37:58     Meeting was reconvened.**

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**CASE NUMBER 20-NONCONFORM-0020**

Request:	Change in Nonconforming Use from a Variety Store (flooring) to a Furniture Store
Project Name:	Dixie Change in Nonconformance
Location:	7135 Dixie Highway
Owner(s):	Cannon Carpet, Inc.
Applicant:	Melanie Cannon
Jurisdiction:	Louisville Metro
Council District:	12 – Rick Blackwell
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 5<sup>th</sup> 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:**

**01:38:35** Nia Holt presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

**The following spoke in favor of the request:**

Robert Cannon, 1221 Outpost Road, Leitchfield, KY 42754

**Summary of testimony of those in favor:**

**01:42:03** Robert Cannon spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

**The following spoke in opposition of the request:**

No one spoke.

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**PUBLIC HEARING**

**CASE NUMBER 20-NONCONFORM-0020**

**01:51:29**      **Board Members' deliberation**

**01:52:23**      On a motion by Member Seale, seconded by Vice Chair Leanhart, the following resolution, based upon Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the new nonconforming use is in the same or more restrictive classification of the first nonconforming use, and

**WHEREAS**, the Board further finds that the new nonconforming use is no more odious or offensive to surrounding properties than the first nonconforming use; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 20-NONCONFORM-0020 does hereby **APPROVE** Change in Nonconforming Use from a Variety Store (flooring) to a Furniture Store.

**The vote was as follows:**

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



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**CASE NUMBER 20-MCUP-0010**

Request:	Modified Conditional Use Permit to allow the construction of a new laboratory and office building
Project Name:	Dow Chemical Lab
Location:	4300 Camp Ground Road
Owner/Applicant:	Rohm & Haas Chemicals, LLC
Jurisdiction:	Louisville Metro
Council District:	1 – Jessica Green
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 5<sup>th</sup> 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:**

**01:55:08** Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

**The following spoke in favor of the request:**

Jordan Heil, 4300 Camp Ground Road, Louisville, KY 40216  
William Tompkins, 4300 Camp Ground Road, Louisville, KY 40216

**Summary of testimony of those in favor:**

**02:01:01** Jordan Heil spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

**02:04:19** William Tompkins spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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**02:05:34** Mr. Heil and Mr. Tompkins responded to questions from the Board Members (see recording for detailed presentation).

**02:09:40** Jon Crumbie responded to questions from the Board Members (see recording for detailed presentation).

**02:14:57** Jordan Heil commented in regard to the landscaping (see recording for detailed presentation).

**02:15:37** Jon Crumbie spoke in regard to the notice that was sent (see recording for detailed presentation).

**02:21:23** Mr. Tompkins responded to questions from the Board Members (see recording for detailed presentation).

**The following spoke in opposition of the request:**

No one spoke.

**02:23:12 Board Members' deliberation**

**02:24:40** Public Hearing was reopened to allow Mr. Tompkins an opportunity to respond to questions from the Board Members (see recording for detailed presentation).

**02:26:05 Board Members' deliberation**

**02:26:24** On a motion by Member Seale, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

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

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**CASE NUMBER 20-MCUP-0010**

**WHEREAS**, the Board further finds that the subject property is served by existing public utilities and facilities. The proposal will not create substantial additional requirements for the site, and

**WHEREAS**, the Board further finds that:

**4.2.42 Potentially Hazardous or Nuisance Uses**

The following uses (manufacture, processing, treatment, or storage unless otherwise specified), having accompanying hazards such as fire, explosion, noise, vibration, dust, or the emission of smoke, odor, or toxic gases may, if not in conflict with other laws or ordinances, be located in industrial zones as indicated below by Conditional Use Permit after the location and nature of such use shall have been approved by the Board of Zoning Adjustment. In reviewing an application for a CUP, the Board of Zoning Adjustment shall review the plan and statements of the applicant and the following:

- A. The Comprehensive Plan;
- B. Environmental and health related concerns raised by the operation and the applicant's proposal to mitigate any adverse effects to the public's health, safety and general welfare;
- C. The applicant's site design, buffering, and security measures and their adequacy to mitigate any adverse effects to the public's health, safety and general welfare;
- D. Any other evidence submitted by the applicant and any other party addressing the issues.

A Conditional Use Permit under this section shall be issued only if the evidence shows the applicant's operation and associated nuisances will be properly managed and the public's health, safety and general welfare will be protected. The Board of Zoning Adjustment may impose additional conditions to protect surrounding properties. All Conditional Use Permits under this section shall be issued subject to the applicant also receiving all necessary permits from local, state and federal regulatory agencies.

**EZ-1 and M-3**

Aluminum powder

Brick, fireback, tile, clay products, including refractories: manufacturing, processing or treatment but not Including storage

Cement, gypsum, lime, and plaster of paris (but not storage)

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Charcoal, lampblack, carbon black, bone black, and fuel briquettes, including pulverizing Chemicals, including acetylene, acids and derivatives, alcohol (industrial), ammonia, aniline dyes, carbide, caustic soda, cellulose and cellulose storage, chlorine, cleaning and polishing preparation (non-soap), dressings and blackings, creosote, dyestuffs, exterminating agents and poisons, hydrogen and oxygen, plastic materials, and synthetic resins, potash, pyroxylin, tar products, turpentine and resin, and solvent-extracting

Coal, coke, or tar products including fuel gas, and coke-oven products

Distillation, manufacture, or refinement of coal, tar, asphalt, or asphalt products cupolas, and blooming mills (but not storage of metal products)

Minerals and earths (including sand-lime products), grinding, crushing, processing or storage Paint manufacture, processing, or treatment (but not storage)

Petroleum or petroleum products, refining, bulk storage, including gasoline or other petroleum products

Plastic, manufacture, processing, treatment, or bulk storage Radioactive materials

Steel works and rolling mills (ferrous) for steel, structural iron and steel fabrication, and structural products, including bars, cables, girders, rails, wire rope, or similar products

Waste paper and rag operations

Wood pulp or fiber, reduction or processing (including paper mill operations); now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 20-MCUP-0010 does hereby **APPROVE** Modified Conditional Use Permit, **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 Potentially Hazardous or Nuisance Uses without further review and approval by the Board.

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**September 14, 2020**

**PUBLIC HEARING**

**CASE NUMBER 20-MCUP-0010**

**The vote was as follows:**

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

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**September 14, 2020**

**PUBLIC HEARING**

**CASE NUMBER 20-CUP-0092**

Request:	Conditional Use Permit to allow short term rental of a dwelling unit not the primary residence of the host
Project Name:	Moore short term rental
Location:	2910 South 3rd Street
Owner:	Glen and Bethany Moore
Applicant:	Michael Marks
Jurisdiction:	Louisville Metro
Council District:	15 – Kevin Triplett
Case Manager:	Jon E. Crumbie, Planning and Design Coordinator

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

**02:29:27** Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see recording for detailed presentation).

**The following spoke in favor of the request:**

Michael Marks, 2933 Bowman Avenue, Louisville, KY 40205

**Summary of testimony of those in favor:**

**02:32:30** Michael Marks 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.

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**September 14, 2020**

**PUBLIC HEARING**

**CASE NUMBER 20-CUP-0092**

**02:51:44**      **Board Members' deliberation**

**02:55:52**      A motion was made by Vice Chair Leanhart, seconded by Member Seale, that Case Number 20-CUP-0092 be **DENIED**.

**The vote was as follows:**

**Yes: Members Seale, Bond, and Vice Chair Leanhart**

**No: Members Buttorff, Jagoe, and Chair Howard**

**02:58:00**      **Board Members' deliberation**

**03:04:01**      On a motion by Vice Chair Leanhart, seconded by Member Seale, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the request does not meet all of the listed requirements and the Conditional Use Permit cannot be approved; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 20-CUP-0092, does hereby **DENY** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in an R-7 Zoning District and Traditional Neighborhood Form District.

**The vote was as follows:**

**Yes: Members Buttorff, Seale, Bond, and Vice Chair Leanhart**

**No: Member Jagoe, and Chair Howard**

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**September 14, 2020**

**PUBLIC HEARING**

**CASE NUMBER 20-APPEAL-0004**

Request:	Appeal of an Administrative Decision
Project Name:	Crums Lane Appeal
Location:	1517 Crums Lane
Appellant:	Cherosen Ventures, LLC, Harbor Holdings, Inc., Goodies Realty, Inc.
Representative:	Michael A. Noll
Jurisdiction:	Louisville Metro
Council District:	3 – Keisha Dorsey
Case Manager:	Jon E. Crumbie, Planning and Design Coordinator

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

**03:07:32** Jon Crumbie presented the case and showed a Powerpoint presentation (see recording for detailed presentation).

**The following spoke in favor of the appeal:**

Michael Noll, 2843 Brownsboro Rd., Suite 212, Louisville, KY 40206  
Gerald Tasman, 930 Geiger Street, Louisville, KY 40206

**Summary of testimony of those in favor:**

**03:11:32** Michael Noll spoke in favor of the appeal and responded to questions from the Board Members (see recording for detailed presentation).

**03:30:02** Gerald Tasman spoke in favor of the appeal and responded to questions from the Board Members (see recording for detailed presentation).



**BOARD OF ZONING ADJUSTMENT MINUTES**  
**September 14, 2020**

**PUBLIC HEARING**

**CASE NUMBER 20-APPEAL-0004**

**03:33:33** Michael Noll spoke in favor of the appeal (see recording for detailed presentation).

**The following spoke in opposition of the appeal:**

No one spoke.

**REBUTTAL:**

**03:35:12** Jon Crumbie declined rebuttal (see recording for detailed presentation).

**03:35:38 Board Members' deliberation**

**03:44:43** On a motion by Member Seale, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that a medical clinic did not exist on the property in 1971, and

**WHEREAS**, the Board further finds that the use of the property (medical clinic) did not continue to present day; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 20-APPEAL-0004, does hereby **AFFIRM** Staff's decision and **DENY** the Appeal.

**The vote was as follows:**

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

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**September 14, 2020**

**03:47:42** Prior to adjournment, Staff and Board Members briefly discussed the 1971 nonconformance date.

The meeting adjourned at approximately 5:00 p.m.

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**Chair**

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**Secretary**