

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

October 5, 2020

A meeting of the Louisville Metro Board of Zoning Adjustment was held on October 5, 2020 at 1:00 p.m. online via Cisco Webex Video Teleconferencing.

Members Present:

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

Members Absent:

Lindsey Jagoe

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
Beth Jones, Planner II
Jay Lockett, Planner I
Jon Crumby, Planning & Design Coordinator
Nia Holt, Planner I
Steve Hendrix, Planning & Design Coordinator
Laura Ferguson, 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 October 5, 2020 Board of Zoning Adjustment meeting was held online.

The following cases were heard:

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SEPTEMBER 28, 2020 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:06:20 On a motion by Member Bond, seconded by Member Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the September 28, 2020 Board of Zoning Adjustment online meeting.

The vote was as follows:

Yes: Members Buttorff, Seale, Bond, and Chair Howard

Abstain: Vice Chair Leanhart

Absent: Member Jagoe

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PUBLIC HEARING

CASE NUMBER 20-SIGNAUTH-0002

Request:	Sign Authorization request
Project Name:	NuLu Marketplace
Location:	821 E. Market Street
Owner:	Mo Deljoo
Applicant:	Architectural Artisans
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Beth Jones, AICP, 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.

NOTE: During the presentation of this case, Chair Howard experienced technical difficulties. Therefore, Vice Chair Leanhart served as Chairperson for this case.

Agency testimony:

00:08:23 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jeff Rawlins, 1403 Tyler Park Drive, Louisville, KY
Mo Deljoo, 9100 Marksfield Rd., Louisville, KY 40222

Summary of testimony of those in favor:

00:30:01 Jeff Rawlins spoke in favor of the request (see recording for detailed presentation).

00:37:22 Mo Deljoo 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-SIGNAUTH-0002

The following spoke in opposition of the request:

No one spoke.

00:44:10 Board Members' deliberation

00:50:36 On a motion by Chair Howard, seconded by Member Seale, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Waiver to permit two Exceptional Signs for Nulu Marketplace over pedestrian walkways LDC .4, Appendix 8B):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners in that it is the result of circumstances unique to the site and will not interfere with visibility of signage on adjacent properties, and

WHEREAS, the Board further finds that the waiver will not violate specific guidelines of Plan 2040 (Community Form Goal 1, Policy 14) as the proposal is in compliance with the underlying form district and the character of the area and makes a positive contribution to the visual quality of its surroundings. It is also of a size and height adequate for effective communication and proportionate with the scale of the development and parking area it identifies.

The proposal also meets LDC design guidelines for a Sign Authorization in that it is visually consistent with the architecture, materials, colors and overall design of its surroundings. The Urban Design Administrator has reviewed and approved the proposal for conformance with design standards for the Nulu overlay district, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant in that signs meeting the standards for Incidental Signs would require reducing their size to the point that they could not function for the intended directional purpose, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant in that the signs as requested perform a reasonable function and are not excessively large or obtrusive; and

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CASE NUMBER 20-SIGNAUTH-0002

Waiver to permit an Exceptional Sign for a tenant over a pedestrian walkway (LDC 8.4, Appendix 8B):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners in that it is the result of circumstances unique to the site and will not interfere with visibility of signage on adjacent properties, and

WHEREAS, the Board further finds that the waiver will not violate specific guidelines of Plan 2040 (Community Form Goal 1, Policy 14) as the proposal is in compliance with the underlying form district and the character of the area and makes a positive contribution to the visual quality of its surroundings. It is also of a size and height adequate for effective communication and proportionate with the scale of the development and parking area it identifies.

The proposal also meets LDC design guidelines for a Sign Authorization in that it is visually consistent with the architecture, materials, colors and overall design of its surroundings. The Urban Design Administrator has reviewed and approved the proposal for conformance with design standards for the NuLu overlay district, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant in that a sign meeting the standards for Incidental Signs would require reducing its size to the point that it could not function for the intended purpose, and

WHEREAS, the Board further finds that there is no net beneficial effect and strict application of the provisions of the regulation would create an unnecessary hardship on the applicant although other tenants with the same location interior to the site are not requesting a similar sign; and

Waiver to permit an Exceptional Sign for Nulu Marketplace attached to an exterior façade (LDC 8.4, Appendix 8B):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners in that it is the result of circumstances unique to the site and will not interfere with visibility of signage on adjacent properties, and

WHEREAS, the Board further finds that the waiver will not violate specific guidelines of Plan 2040 (Community Form Goal 1, Policy 14) as the proposal is in compliance with

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the underlying form district and the character of the area and makes a positive contribution to the visual quality of its surroundings. It is also of a size and height adequate for effective communication and proportionate with the scale of the development and parking area it identifies.

The proposal also meets LDC design guidelines for a Sign Authorization in that it is visually consistent with the architecture, materials, colors and overall design of its surroundings. The Urban Design Administrator has reviewed and approved the proposal for conformance with design standards for the NuLu overlay district, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant in that only one such sign is being requested, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant in that the sign is a reasonable substitute for a sign type that is not permitted and its design has been reviewed and approved by the Urban Design Administrator for conformance with design standards for the NuLu overlay district; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-SIGNAUTH-0002 does hereby **APPROVE** Waiver to permit two Exceptional Signs for Nulu Marketplace over pedestrian walkways (LDC 8.4, Appendix 8B), Waiver to permit an Exceptional Sign for a tenant over a pedestrian walkway (LDC 8.4, Appendix 8B), and Waiver to permit an Exceptional Sign for Nulu Marketplace attached to an exterior façade (LDC 8.4, Appendix 8B).

The vote was as follows:

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

Absent: Member Jagoe

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0091

Request:	Variance and Waiver
Project Name:	Renovation of Freestanding Sign
Location:	20-VARIANCE-0091
Owner/Applicant:	Lyndon Baptist Church
Jurisdiction:	Louisville Metro
Council District:	7 – Paula McCraney
Case Manager:	Beth Jones, AICP, 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.

Note: The technical issues experienced by Chair Howard were resolved. Therefore, Chair Howard resumed as Chair for the remainder of this meeting.

Agency testimony:

00:55:44 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jim Holladay, 1203 Carlimar Lane, Louisville, KY 40222
Duane Smothers, 5907 Manson Way, Louisville, KY 40258

Summary of testimony of those in favor:

01:08:41 Jim Holladay spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:12:18 Duane Smothers spoke in favor of the request (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

01:14:00 Board Members' deliberation

01:15:22 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:

Waiver to permit a changing image sign to be located closer than 300 ft. from a residentially zoned district (LDC 8.2.1.D.6):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant in that the proposed changing image sign will meet all remaining LDC requirements, and

WHEREAS, the Board further finds that the Conditions of Approval adequately mitigate any negative impacts of the changing image sign;

Note: Prior to roll call vote on this motion, the motion was amended to include a statement that the applicant has agreed to mitigate any negative impacts by agreeing to the Conditions of Approval.

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0091 (20-WAIVER-0097) does hereby **APPROVE** Waiver to permit a changing image sign to be located closer than 300 feet from a residentially zoned district (LDC 8.2.1.D.6), **SUBJECT** to the following Conditions of Approval.

Conditions of Approval:

1. The changing image portion of sign shall be programmed so as to be non-functional between the hours of 9:00pm and 6:00am daily, so as to mitigate negative impacts on residential uses in the vicinity during nighttime hours. Confirmation of compliance with this condition shall be made by Planning & Design Staff as part of the sign permit approval process.
2. The panels of the internally-illuminated cabinet portion of the sign shall have an opaque background so as to mitigate negative impacts on residential uses in the

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vicinity during nighttime hours. Confirmation of compliance with this condition shall be made by Planning & Design Staff as part of the sign permit approval process.

The vote was as follows:

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

Absent: Member Jagoe

01:19:07 Chair Howard called for a roll call vote on the original motion.

The vote was as follows:

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

Absent: Member Jagoe

01:20:26 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:

Variance to permit a freestanding sign to exceed the maximum permitted height (LDC Table 8.3.2, Town Center):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect public health safety or welfare since the location of the sign will not interfere with pedestrian or vehicular traffic or with nearby land uses, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the sign has been in place for more than 50 years, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the sign location will not disrupt pedestrian or vehicular traffic or nearby land uses, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations since the portion of the sign requiring the variance is decorative in nature and not visually intrusive; now, therefore be it

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RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0091 does hereby **APPROVE** Variance to permit a freestanding sign to exceed the maximum permitted height (LDC Table 8.3.2, Town Center).

The vote was as follows:

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

Absent: Member Jagoe

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CASE NUMBER 20-VARIANCE-0092

Request:	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.
Project Name:	Graston Variance
Location:	5001 Graston Avenue
Owner:	David Bradshaw
Applicant:	David Bradshaw
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 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:

01:22:21 Nia Holt presented the case and showed a Powerpoint presentation. Ms. Holt responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

David Bradshaw, 5001 Graston Ave., Louisville, KY 40216

Summary of testimony of those in favor:

01:26:04 David Bradshaw spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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CASE NUMBER 20-VARIANCE-0092

01:29:10 Board Members' deliberation

01:29:43 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 requested variance will not adversely affect the public health, safety or welfare as the fence is not within the sight triangle and does not interfere with vision clearance at either intersection, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as there a few fences in the street side yard setback with a similar height in the area, and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the fence will be of similar design to other fences in the area; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0092 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 a Neighborhood Form District to exceed 48 inches in height (**Street Side Yard Requirement 48 in., Request 72 in., Variance 24 in.**).

The vote was as follows:

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

No: Member Buttorff

Absent: Member Jagoe

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0102

Request: Variance to allow a structure to be more than 5' from the property line along W Hill St, waiver to allow parking between the principle structure and the street, waiver relating to wall/fence materials and a waiver relating to pedestrian connections

Project Name: Amin's Family Practice

Location: 1501-1511 S 7th St, 657 W Shipp Ave

Owner: Amin Investments, LLC

Applicant: Amin Investments, LLC

Jurisdiction: Louisville Metro

Council District: 6 – David James

Case Manager: Jay Lockett, Planner I, AICP

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:

01:32:24 Jay Lockett presented the case and showed a Powerpoint presentation. Mr. Lockett responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

John Miller, 1387 S. 4th Street, Louisville, KY 40208

Summary of testimony of those in favor:

01:45:50 John Miller spoke in favor of the request and referred to photographs of the site (see recording for detailed presentation).

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CASE NUMBER 20-VARIANCE-0102

The following spoke in opposition of the request:

No one spoke.

01:52:46 Board Members' deliberation

01:53:18 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:

Variance from Land Development Code Section 5.5.1.A.2 to exceed the maximum 5 foot corner lot setback by up to 65 feet from W. Hill St. as shown on the development plan:

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 reduction does not impede the safe movement of pedestrians or vehicles, as the development structure is existing and will continue to function in a safe manner, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the site will have a consistent design and development in the area has a variety of setbacks and uses, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the site will continue to function as it has in the past, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the medical office structure is existing and the expanded parking will allow for its continued use; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0102 does hereby **APPROVE** Variance from Land Development Code Section 5.5.1.A.2 to exceed the maximum 5 foot corner lot setback by up to 65 feet from W. Hill St. as shown on the development plan.

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The vote was as follows:

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

Absent: Member Jagoe

01:55:17 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:

Waiver from Land Development Code Section 5.5.1.A.3 and 5.9.2.C to allow a parking lot in front of a building in the Traditional Workplace form district:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners, as many nearby sites have parking and drive areas in front of the building, and

WHEREAS, the Board further finds that the waiver will not violate the comprehensive plan, as it will allow for continuation of a community serving commercial use in an existing commercial activity center. The waiver will not allow an unreasonable circumvention of the regulations or cause a hazard to the public, 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. The applicant will provide required landscaping and buffering around the site, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as it would prevent them from providing adequate parking to accommodate their staff and patients; and

Waiver from Land Development Code Section 5.5.1.A.3 to allow a mix of metal fencing and masonry to be used instead of a solid masonry wall around a parking area:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners, as fencing will be provided that is consistent with the existing site, and

WHEREAS, the Board further finds that the waiver will not violate the comprehensive plan, as it will allow for continued use of an existing commercial site within an

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established activity center. The waiver will not allow an unreasonable circumvention of the regulations or cause a hazard to the public, 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. The applicant will still construct a fence that will set the visual property edge within required setbacks, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as it would require the construction of a section of wall that would not match the existing fencing on the site; and

Waiver from Land Development Code Section 5.9.2.A.1.b to not provide direct pedestrian access through the parking lot from W. Hill St. to the front of the entrance:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners, as the waiver only concerns access control to the subject site, and

WHEREAS, the Board further finds that the waiver will not violate the comprehensive plan, as safe vehicular and pedestrian access to the site will still be provided. The waiver will not allow an unreasonable circumvention of the regulations or cause a hazard to the public, 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. Adequate pedestrian access is provided via the main entrance on S. 7th St., and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as it would require a redundant pedestrian access parallel to public sidewalks that would potentially be less safe than proposed; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0102 (20-WAIVER-0075) does hereby **APPROVE** Waiver from Land Development Code Section 5.5.1.A.3 and 5.9.2.C to allow a parking lot in front of a building in the Traditional Workplace form district, and Waiver from Land Development Code Section 5.5.1.A.3 to allow a mix of metal fencing and masonry to be used instead of a solid masonry wall around a parking area, and Waiver from Land Development

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Code Section 5.9.2.A.1.b to not provide direct pedestrian access through the parking lot from W. Hill St. to the front of the entrance.

The vote was as follows:

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

Absent: Member Jagoe

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CASE NUMBER 20-CUP-0078

Request:	Conditional Use Permit for a commercial greenhouse (produce stand/garden)
Project Name:	Produce Stand
Location:	1209 Flat Rock Road
Owner/Applicant:	Kim Shaw
Jurisdiction:	Louisville Metro
Council District:	19 – Anthony Piagentini
Case Manager:	Steve Hendrix, 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 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:

01:58:08 Steve Hendrix presented the case and showed a Powerpoint presentation. Mr. Hendrix responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Kim Shaw, 1209 Flat Rock Road, Louisville, KY 40245

Summary of testimony of those in favor:

02:06:05 Kim Shaw spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:12:15 Joe Haberman, Planning & Design Manager, read into the record a comment submitted through the chat function from Cheryl Harrington that was in support of the request (see recording for detailed presentation).

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CASE NUMBER 20-CUP-0078

The following spoke in opposition of the request:

Mary Heady, 1213 Flat Rock Road, Louisville, KY 40245

Summary of testimony of those in opposition:

02:14:00 Mary Heady spoke in opposition of the request. Ms. Heady stated her concerns regarding parking, traffic, and vandalism. Ms. Heady stated she would like to have a fence put up, and Mr. Shaw to have a turn-around driveway. Ms. Heady responded to questions from the Board Members. Ms. Heady stated that Mr. Shaw had lied under oath (see recording for detailed presentation).

02:25:43 Laura Ferguson, Legal Counsel, addressed the accusation of lying under oath. Ms. Ferguson stated it goes to the weight of the testimony that's been given and right now we have she says one thing and he says another thing. Ms. Ferguson stated the Board could take that into the weight of granting or denying this Conditional Use Permit. Ms. Ferguson stated if the applicant is going to agree to Conditions of Approval then obviously the CUP could be revoked if the conditions were not met (see recording for detailed presentation).

REBUTTAL:

02:27:28 Mr. Shaw spoke in rebuttal and responded to questions from the Board Members. Mr. Haberman and Mr. Hendrix spoke regarding the review by Transportation Planning. Mr. Hendrix referred to the site plan. Mr. Shaw agreed to conditions regarding installation of a privacy fence and directional signage (see recording for detailed presentation).

02:40:06 Joe Reverman, Planning & Design Assistant Director, spoke regarding directional signage and responded to questions from the Board Members (see recording for detailed presentation).

02:44:23 Board Members' deliberation

02:52:55 On a motion by Member Seale, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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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 the proposal involves a small shed that is used to sell produce from the garden and from a farm the applicant owns in Henry County as opposed to a full-fledged greenhouse. The area is rural in character with subdivisions off Flat Rock Road, and

WHEREAS, the Board further finds that MSD and Transportation are in the process of stamping the plan, and

WHEREAS, the Board further finds that:

Commercial Greenhouses/Plant Nurseries/Landscape Material Supply may be allowed in the R-R, R-1, R-2, R-3, R-4, R-5, R-5A, R-5B, R-6, R-7, R-8A, OR-1, OR-2, OR-3 and OTF Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. Buffers and Screening—Greenhouses and other structures as well as outdoor sales, display and storage of materials shall be buffered and screened in accordance with standards for commercial uses in Chapter 10, Landscaping, Screening, and Open Spaces. Parking lots shall be screened from adjacent properties in accordance with the provisions of the Development Code. **A wooden privacy fence is located on the southern side of the property. The existing driveway is very close to the northern property line without room for any type of planting. A privacy fence could be installed along the side property line. The applicant is requesting relief from this requirement. The Board has the authority to determine what type of buffer/screening might be necessary.**
- B. All buildings, structures and outdoor sales/display and storage of materials shall be at least 50 feet from the front and/or street-side property line and a minimum of 20 feet from any other property line. **The produce shed is 12.5 feet from the front property line and approximately 20 feet from the Flat Rock Road pavement. The applicant is requesting relief from this requirement.**
- C. Freestanding Signs – Only one freestanding sign shall be permitted. The freestanding sign shall not exceed 32 square feet in area per side and shall not exceed a height of 6 feet. The maximum height shall include any berm, landscape mound, or other manmade alterations above the surrounding ground level. **No freestanding sign exists on the property. Staff is recommending no freestanding sign.**

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- D. Attached Signs – Only one attached sign shall be permitted. The one attached sign permitted shall be attached to the primary building only and no attached sign shall be permitted on any other buildings on the site. The attached sign shall not exceed 20 square feet in area, shall be attached flat to the face of the building, and shall not project more than 18 inches from the face of the building. **No attached signage exists on the property. Staff is recommending no attached signage;** now, therefore be it
- .

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-CUP-0078 does hereby **APPROVE** Conditional Use Permit to allow the existing produce shed and garden as a commercial greenhouse operation, with **RELIEF** from Standard 4A (relieved by Condition of Approval #3) and 4B (relieved by the existing construction of the shed), and **SUBJECT** to the following Conditions of Approval.

Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the existing produce shed shall not be valid until further review and approval by the Board.
3. The applicant shall install a 6 foot privacy fence along the northern property line, acknowledging the 30 foot front yard setback.
4. The applicant shall install directional signs to direct traffic to exit facing forward on Flat Rock Road.

The vote was as follows:

Yes: Members Buttorff, Seale, Bond, and Chair Howard

No: Vice Chair Leanhart

Absent: Member Jagoe

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CASE NUMBER 20-CUP-0103

Request:	Conditional Use Permit for a private institutional use (church expansion) in a single family zoning district
Project Name:	St. John Paul II Parish Life Center
Location:	3519-3521 & 3533 Goldsmith Lane
Owner:	Roman Catholic Bishop of Louisville, Robert L. Cecil, CFO
Applicant:	Chris Brown, AICP, BTM Engineering Inc.
Jurisdiction:	Louisville Metro
Council District:	26 – Brent Ackerson
Case Manager:	Steve Hendrix, 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 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:

03:07:29 Steve Hendrix presented the case and showed a Powerpoint presentation. Mr. Hendrix responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Chris Brown, 3000 Taylor Springs Drive, Louisville, KY 40220

Summary of testimony of those in favor:

03:12:19 Chris Brown spoke in favor of the request and showed a Powerpoint presentation. Mr. Brown 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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03:19:33 Board Members' deliberation

03:20:07 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 proposal meets all applicable policies of the Comprehensive Plan, and

WHEREAS, the Board further finds that the proposal includes the one story, 6,200 square foot Parish Life Center, a 900 square foot garage/storage building and 8 new parking spaces on an existing church site, all compatible with the surrounding land uses and the general character of the area, and

WHEREAS, the Board further finds that MSD and Transportation have stamped the plan, 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. **The requirement has been met.**
- B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated. **Transportation has stamped the plan.**
- 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

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demand and trip generation characteristics of the proposed use. **The requirement has been met.**

- D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99). **The applicant has been informed of this requirement.**
- 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. **The applicant has been informed of this requirement,** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-CUP-0103 does hereby **APPROVE** Conditional Use Permit to allow the expansion of a private institutional use (church) in a single family zoning district for a parish life center, a garage/storage building and eight (8) new parking spaces, **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 proposed expansion shall not be valid until further review and approval by the Board.

The vote was as follows:

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

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CASE NUMBER 20-CUP-0104

Request:	Conditional Use Permit for a private institutional use (church parking lot expansion) in a single family zoning district
Project Name:	Additional Parking
Location:	232 Carey Avenue
Owner:	Iglesia Bautista Cooper Chapel Inc., by Cesar Cano
Applicant:	Frank Sellinger, FStan Land Surveyors
Jurisdiction:	Louisville Metro
Council District:	2 -- Barbara Shanklin & 10 – Pat Mulvihill
Case Manager:	Steve Hendrix, 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 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:

03:22:23 Steve Hendrix presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Cesar Cano, 232 Carey Ave., Louisville, KY 40218
Daniel Cano, 232 Carey Ave., Louisville, KY 40218

Summary of testimony of those in favor:

03:26:18 Daniel Cano and Cesar Cano 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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03:29:54 Board Members' deliberation

03:30:17 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 proposal meets all applicable policies of Plan 2040, and

WHEREAS, the Board further finds that the proposal includes adding 22 parking spaces to the existing church site, and

WHEREAS, the Board further finds that MSD and Transportation are in the process of reviewing and stamping the plan, 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. **The requirement has been met.**
- B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated. **Transportation is in the process of reviewing and stamping the plan.**
- 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. **The proposed**

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parking is on the west side of the property and to the side of the existing church.

- D.** All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99). ***The applicant has been informed of this requirement.***
- 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. ***The applicant has been informed of this requirement*** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-CUP-0104 does hereby **APPROVE** Conditional Use Permit to allow additional parking for a private institutional use (church) in a single family zoning district, **SUBJECT** to the following Conditions of Approval.

Conditions of Approval:

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

The vote was as follows:

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

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CASE NUMBER 20-CUP-0105

Request:	Conditional Use Permit to allow a bed and breakfast
Project Name:	Pryor Bed and Breakfast
Location:	3921 Altawood Court
Owner/Applicant:	Matthew and Kim Pryor
Jurisdiction:	Louisville Metro
Council District:	17 – Markus Winkler
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.

Agency testimony:

03:32:10 Jon Crumbie presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Matthew Pryor, 3915 Altawood Court, Louisville, KY 40245

Summary of testimony of those in favor:

03:36:04 Matthew Pryor spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

03:38:13 Board Members' deliberation

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03:39:27 On a motion by Member Bond, 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 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:

All Conditional Uses shall meet the following standards in addition to requirements listed for each section:

- A. Additional Requirements - Where the Board finds that the conditions or circumstances relating to a particular application warrant more requirements in addition to those listed in connection with the particular use applied for, the Board may attach additional conditions; refer to 11.5.A.
- B. Relief From Listed Requirements - The Board may decrease or waive listed requirements, either permanently or on a temporary basis; refer to 11.5.A.
- C. Compliance With Listed Requirements and Attached Conditions - The Board shall have the power to revoke Conditional Use Permits for noncompliance with listed requirements or attached conditions. Furthermore, the Board shall have a right of action to compel the removal of offending structures or uses at the cost of the violator and may have judgment in personam for such cost.
- D. Drives and Parking Areas - All drives and parking areas (except landscaping areas) shall be surfaced with a hard and durable material and properly drained. Gravel drives and parking areas, as well as drives and parking areas constructed with semi-pervious materials approved by the Board, may be permitted. **The drive and parking areas will be surfaced with a hard and durable material and properly drained.**

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- E. Compatibility - Conditional Uses shall comply with all applicable standards of the Land Development Code, including the form district regulations, form district transition standards, and landscaping. Additional standards may be included in the listed requirements for a particular use. **The proposal will be located in an existing structure that will be improved. Updated landscaping will be provided.**
- F. Off-Street Parking Requirements - Off-street parking spaces shall be provided in accordance with Chapter 9, Parking Regulations unless otherwise listed. The Board may establish additional parking requirements. **Chapter 9 parking requirements will be met.**
- G. Lighting Requirements – Outdoor lighting shall conform to the design, light glare, and light trespass standards as stated in Chapter 4 Part 1, Outdoor Lighting Regulations. **Lighting will be Land Development Code compliant.**
- H. Setbacks and Required Yards - All buildings, structures and facilities, whether permanent or temporary shall observe setbacks and yards in accordance with the appropriate Form District standards. Additional standards may be included in the listed requirements for that use. **The proposal will be located in an existing structure that will be improved;** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-CUP-0105, does hereby **APPROVE** Conditional Use Permit to allow a Bed & Breakfast, **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 bed & breakfast until further review and approval by the Board.

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The vote was as follows:

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

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03:41:09 Prior to adjournment, staff and Board Members discussed training opportunities and training requirements for the Board Members (see recording for detailed presentation).

The meeting adjourned at approximately 4:50 p.m.

Chair

Secretary