

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

February 1, 2021

A meeting of the Louisville Metro Board of Zoning Adjustment was held on February 1, 2021 at 1:00 p.m. online via Cisco Webex Video Teleconferencing.

Members Present:

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

Members Absent:

Richard Buttorff

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Reverman, Planning & Design Assistant Director
Brian Davis, Planning & Design Manager
Joe Haberman, Planning & Design Manager
Joel Dock, Planner II
Jay Lockett, Planner I
Rachel Mandell, Planner I
Jon Crumbie, Planning & Design Coordinator
Laura Ferguson, Legal Counsel

Minutes prepared by:

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 February 1, 2021 Board of Zoning Adjustment Regular meeting was held online.

The following cases were heard:

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JANUARY 25, 2021 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:06:08 On a motion by Vice Chair Seale, seconded by Member Bond, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the January 25, 2021 Board of Zoning Adjustment online meeting.

The vote was as follows:

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

Abstain: Member Leanhart

Absent: Member Buttorff

00:07:33 Chair Howard called Item #5 on today's agenda at this time. See page 11 of these minutes for details.

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BUSINESS SESSION

LDC_Reform_Update

Project Name: LDC Reform Update
Case Manager: Emily Liu, Director, Planning & Design Services

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

Agency testimony:

00:09:34 Emily Liu provided a brief introduction on the LDC Reform Update and showed a Powerpoint presentation. Ms. Liu encouraged the Board Members to view the Land Development Code Reform Workshop Sessions (see staff report and recording for detailed presentation).

00:19:26 Joel Dock discussed the LDC Reform and showed a Powerpoint presentation. Mr. Dock discussed the racial implications of zoning and how they've led to continued patterns of segregation within our cities. Mr. Dock stated as you move through the Comprehensive Plans and get into the 60's and 70's, some of the words aren't as strong anymore and there's an attempt to talk about diversity of uses, but there was no real change that ever occurred within our zoning schemes. Mr. Dock discussed single-family zoning and minimum lot size. Mr. Dock suggested the Board Members visit the Planning & Design Services website and under the Equity Review of the Land Development Code tab there is a link to this document. The Board Members and staff discussed the presentation (see recording for detailed presentation).

This agenda item was for information only. Therefore, no vote or action was taken.

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0150

Request:	Variance to Exceed Maximum front yard setback and a waiver not to provide pedestrian connection to adjacent ROW
Project Name:	Reservoir Ave Contractor Shop
Location:	1427 Reservoir Ave
Owner/Applicant:	Karl Keeling
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
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 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:

00:37:53 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:

Karl Keeling, 7201 Covered Bridge Road, Prospect, KY 40059

Summary of testimony of those in favor:

00:44:07 Karl Keeling 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:

Councilman Pat Mulvihill, 3305 Audubon Ridge Drive, Louisville, KY 40213
Geoff Wohl, 601 W. Jefferson St., Louisville, KY 40202

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CASE NUMBER 20-VARIANCE-0150

Summary of testimony of those neither for nor against:

00:51:40 Councilman Pat Mulvihill spoke neither for nor against the request. Councilman Mulvihill stated he thinks this project fits in with the other uses and will be a benefit to the area. Councilman Mulvihill responded to questions from the Board Members (see recording for detailed presentation).

00:55:47 Geoff Wohl, Legislative Assistant for Councilman Mulvihill, spoke neither for nor against the request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

REBUTTAL:

00:58:09 Karl Keeling made additional comments regarding traffic that would be coming to this site (see recording for detailed presentation).

00:58:59 Board Members' deliberation

01:03:31 On a motion by Vice Chair Seale, seconded by Member Jagoe, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Variance from Land Development Code Table 5.3.2 to exceed the maximum 80-foot front yard setback by up to 14 feet from Kenton Ave. 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, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the site is situated in an area with similar uses and a variety of setbacks. The greater setback will move the structure closer to the industrial area and away from the residential area, and

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WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the building will meet all required health and safety regulations and provisions for the safe circulation of vehicular and pedestrian traffic have been provided, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the site development will fit in with similar uses in the surrounding area; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0150 does hereby **APPROVE** Variance from Land Development Code Table 5.3.2 to exceed the maximum 80-foot front yard setback by up to 14 feet from Kenton Ave. as shown on the development plan.

The vote was as follows:

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

Absent: Member Buttorff

01:04:56 On a motion by Vice Chair Seale, seconded by Member Jagoe, 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 5.9.2.A.1.b to not provide direct pedestrian access from adjacent public rights-of-way:

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 there are no sidewalks around the subject site and the proposed use is unlikely to generate significant pedestrian traffic. The applicant will pay a fee-in-lieu of sidewalk construction in adjacent rights-of-way. The waiver will not allow an unreasonable circumvention of the regulations or cause a hazard to the public, and

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WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant, 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 the site has significant security needs and would generate minimal pedestrian traffic; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0150 (20-WAIVER-0111) does hereby **APPROVE** Waiver from Land Development Code Section 5.9.2.A.1.b to not provide direct pedestrian access from adjacent public rights-of-way.

The vote was as follows:

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

Absent: Member Buttorff

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0178

Request:	Variance to allow a second story addition to encroach into the side yard setback
Project Name:	Tyler Lane Variance
Location:	2045 Tyler Lane
Owner/Applicant:	DHR Properties LLC/Clay Wallace
Jurisdiction:	Louisville Metro
Council District:	8 – Cassie Armstrong
Case Manager:	Rachel Mandell, 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:

01:06:47 Rachel Mandell presented the case and showed a Powerpoint presentation. Ms. Mandell responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Clay Wallace, 2639 Kings Highway, Louisville, KY 40205

Summary of testimony of those in favor:

01:09:39 Clay Wallace 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:

Victoria Moll, 2041 Tyler Lane, Louisville, KY 40205

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0178

Summary of testimony of those neither for nor against:

01:16:02 Victoria Moll spoke neither for nor against the request. Ms. Moll stated they do not have an issue with allowing access to their property for construction and maintenance but were reluctant to sign a letter. Chair Howard explained that the Board of Zoning Adjustment started in 2020 having applicants request of adjoining property owners to agree to allow construction and/or maintenance so they would know there would be no problems with construction or maintenance of the property. Ms. Moll stated that helps and that makes sense (see recording for detailed presentation).

01:18:52 Mr. Wallace responded to a question from Ms. Moll regarding the extent of the addition. Mr. Wallace stated he appreciates the Moll's participation and cooperation (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

01:20:55 Board Members' deliberation

01:21:24 On a motion by Member Bond, seconded by Member 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. 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 addition will be conforming with the design of other structures on the same block, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the structure will be within the footprint of the existing home. Additionally, the new construction will comply with all building codes, including fire codes, and

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CASE NUMBER 20-VARIANCE-0178

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed addition is in line with the existing structure; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0178 does hereby **APPROVE** Variance from Land Development Code Table 5.3.1 to allow a principle structure to encroach into the required side yard setback **(West Side Yard Requirement 5 ft., Request 2.4 ft., Variance 2.6 ft.)**.

The vote was as follows:

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

Absent: Member Buttorff

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CASE NUMBER 20-CUP-0142

Request:	Conditional Use Permit to allow a private non-profit club in a Residential Estate Zoning District with a landscape waiver
Project Name:	Grandview Care Inc. Retreat Center
Location:	990 Evergreen Road
Owner/Applicant:	Grandview Care Inc. by Neil Ramsey
Jurisdiction:	Louisville Metro
Council District:	17 - Markus Winkler
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.

00:07:33 Chair Howard called Case Number 20-CUP-0142 at this time. Chair Howard stated this case has been withdrawn at the request of the applicant (see recording for detailed presentation).

Case Number 20-CUP-0142 was WITHDRAWN. Therefore, no vote or action was taken.

01:22:57 Chair Howard repeated that Case Number 20-CUP-0142 has been Withdrawn and will not be heard today.

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PUBLIC HEARING

CASE NUMBER 20-MCUP-0014

Request:	Modified Conditional Use Permit to allow additional types of senior living at the existing campus
Project Name:	Episcopal Senior Living
Location:	7504 Westport Road
Owner/Applicant:	Trustees of the Church Home & Infirmed by Laura Lamb
Jurisdiction:	Louisville Metro
Council District:	7 – Paula McCraney
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:

01:24:05 Jon Crumbie presented the case on behalf of the Case Manager 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:

Laura Lamb, 6272 Grand Vista Ave., Cincinnati, OH 45213

Summary of testimony of those in favor:

01:30:46 Laura Lamb spoke in favor of the request (see recording for detailed presentation).

The following spoke neither for nor against the request:

Councilwoman Paula McCraney, 600 W. Jefferson Street, Louisville, KY 40202

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PUBLIC HEARING

CASE NUMBER 20-MCUP-0014

Summary of testimony of those neither for nor against:

01:33:55 Councilwoman Paula McCraney spoke neither for nor against the request. Councilwoman McCraney stated Episcopal Homes is a very good project and she encourages the Board's support (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

01:35:43 Board Members' deliberation

01:36:17 On a motion by Member 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 does not conflict with Comprehensive Plan policies, and

WHEREAS, the Board further finds that the renovations and new construction are within the existing Episcopal Church Home campus, and

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

WHEREAS, the Board further finds that:

Nursing Homes & Homes for the Infirm or Aged may be permitted in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. All buildings shall be located at least 30 feet from any property line.
- B. One sign, not to exceed 60 square feet and six feet in height, may be placed at each of the major entrances, except in districts where larger signs are allowed.
- C. The Board of Zoning Adjustment shall add any restrictions to mitigate nuisances or adverse effects; now, therefore be it

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CASE NUMBER 20-MCUP-0014

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-MCUP-0014 does hereby **APPROVE** Modification of a Conditional Use Permit of a Nursing Home & Home for the Infirm or Aged to allow the renovation and new construction of buildings for a more intimate and modern style of living and personal care, **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 Modified 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 Modified Conditional Use Permit is not so exercised, the modification will become null and void.

The vote was as follows:

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

Absent: Member Buttorff

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The meeting adjourned at approximately 2:40 p.m.

Chair

Secretary