

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

September 13, 2021

A meeting of the Louisville Metro Board of Zoning Adjustment was held on September 13, 2021 at 1:00 p.m. online via Cisco Webex Video Teleconferencing.

Members Present:

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

Members Absent:

Yani Vozos

Staff Members Present:

Joe Reverman, Planning & Design Assistant Director
Joe Haberman, Planning & Design Manager
Brian Davis, Planning & Design Manager
Chris French, Planning & Design Supervisor
Zach Schwager, Planner I
Heather Pollock, Planner I
Jon Crumby, Planning & Design Coordinator
Tara Sorrels, Associate Planner
Priscilla Bowman, Associate Planner
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 September 13, 2021 Board of Zoning Adjustment meeting was held online.

The following cases were heard:

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AUGUST 30, 2021 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:05:58 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 August 30, 2021 Board of Zoning Adjustment online meeting.

The vote was as follows:

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

Abstain: Member Leanhart

Absent: Member Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
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BUSINESS SESSION

BOZA Bylaws

Request: Proposed Bylaw Amendments
Case Manager: Chris French, AICP, Planning Supervisor

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:

00:07:15 Chris French presented the proposed Bylaw Amendments. Mr. French explained that these are additions related to notice. Mr. French responded to questions from the Board Members (see staff report and recording for detailed presentation).

00:10:07 On a motion by Vice Chair Seale, seconded by Member Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Proposed Bylaw Amendments.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0097

Request:	Variance to allow a fence to exceed 48 inches in height in the street side yard setback
Project Name:	Caven Avenue Variance
Location:	9906 Caven Avenue
Owner/Applicant:	Martha C. Perez Sanchez
Jurisdiction:	Louisville Metro
Council District:	24 – Madonna Flood
Case Manager:	Zach Schwager, Planner I

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

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

Agency testimony:

00:12:26 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:

No one spoke.

The following spoke in opposition of the request:

No one spoke.

00:23:24 Board Members' deliberation

00:26:47 On a motion by Member Buttorff, 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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CASE NUMBER 21-VARIANCE-0097

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will adversely affect the public health, safety or welfare as the fence does obstruct vision clearance along Caven Avenue and Pirate Lane; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-00097 does hereby **DENY** Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence to exceed 48 inches in height in the street side yard setback.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0098

Request:	Variance to allow a private yard area to be less than the required 30% of the area of the lot
Project Name:	Cotter Drive Variance
Location:	3516 Cotter Drive
Owner/Applicant:	Arie & Dalton Holt
Jurisdiction:	Louisville Metro
Council District:	1 – Jessica Green
Case Manager:	Zach Schwager, Planner I

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

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

Agency testimony:

00:28:17 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:
Arie Holt, 3516 Cotter Dr., Louisville, KY 40211

Summary of testimony of those in favor:

00:33:00 Arie Holt spoke in favor of the request (see recording for detailed presentation).

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

00:35:57 Board Members' deliberation

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CASE NUMBER 21-VARIANCE-0098

00:37:45 On a motion by Member Bond, 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, 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 there are multiple other properties in the area with similar designs. There is also no alley access and the pattern of development is more similar to the Neighborhood Form District, 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 there is no other area to put the addition. Also, the existing private yard area does not meet the requirement; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0098 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 the lot (**Private Yard Area Requirement 1,889.28 sq. ft., Request 0 sq. ft., Variance 1,889.28 sq. ft.**).

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0099

Request:	Variance to allow an addition to a principal structure to encroach into the required side yard setback
Project Name:	Tiffany Lane Variance
Location:	506 Tiffany Lane
Owner/Applicant:	Lindsay & Eric Harden
Jurisdiction:	City of Rolling Fields
Council District:	7 – Paula McCraney
Case Manager:	Zach Schwager, Planner I

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

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

Agency testimony:

00:39:55 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:

Gant Jones, 7204 Highway 329, Crestwood, KY 40014
Eric Harden, 506 Tiffany Ln., Louisville, KY 40207

Summary of testimony of those in favor:

00:50:35 Chair Howard swore in Mr. Jones and Mr. Harden at the same time. Gant Jones spoke in favor of the request (see recording for detailed presentation).

00:54:02 Eric Harden spoke in favor of the request. Mr. Harden and Mr. Jones responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:

Bobby Vice, 508 Tiffany Lane, Louisville, KY 40207
Dan Tafel, 3704 Fairway Lane, Louisville, KY 40207
Ian Davis, 3721 Edmond Lane, Louisville, KY 40207
Henry Snyder, 3718 Edmond Lane, Louisville, KY 40207
David O'Barr, 3717 Edmond Lane, Louisville, KY 40207
Joseph Griesbeck, 503 Tiffany Lane, Louisville, KY 40207
David Dunn, 512 Tiffany Lane, Louisville, KY 40207
Edward Jay, 509 Tiffany Lane, Louisville, KY 40207

Summary of testimony of those in opposition:

01:04:51 Bobby Vice spoke in opposition of the request. Mr. Vice stated this is not a lot shape or lot size problem, this is primarily the result of decisions made by the applicant and a way over-built lot problem. Mr. Vice stated the garage could be built in the back yard. Mr. Vice stated there is not a hardship here. Mr. Vice stated there are reasonable compromises and the neighbors remain committed to working with the applicant if this variance is denied (see recording for detailed presentation).

01:14:40 Dan Tafel spoke in opposition of the request. Mr. Tafel stated the City of Rolling Fields Review Committee denied it because they were looking to build up to four feet on the property line when their local guidelines are eight feet. Mr. Tafel stated they were looking for 13 feet combined on either side of the house when their local requirements are eighteen feet. Mr. Tafel stated they've made a few variances and there are other lots with these configurations, and never before have they had to resolve it going to BOZA, they've always been able to resolve it locally. Mr. Tafel stated his recommendation is to deny this variance and allow a negotiated less severe variance (see recording for detailed presentation).

01:17:41 Ian Davis spoke in opposition of the request. Mr. Davis stated there is significant neighborhood opposition. Mr. Davis stated the City of Rolling Fields opposes it. Mr. Davis stated the requested variance was avoidable; this lot's shape and size are not unique to the residents or the neighborhood. Mr. Davis stated approval of the requested variance will create a bad precedent for the neighborhood. Mr. Davis stated the solution is thoughtful design and proper planning in compliance with the building guidelines (see recording for detailed presentation).

01:20:36 Henry Snyder stated he is not within eyeshot of it, so he cedes his time to someone who has a greater equity in this (see recording for detailed presentation).

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01:21:46 David O'Barr spoke in opposition of the request. Mr. O'Barr stated allowing this variance will create a precedence and future variances will be requested (see recording for detailed presentation).

01:23:19 Joseph Griesbeck spoke in opposition of the request. Mr. Griesbeck stated they've all done renovations to their houses while abiding by the existing rules and regulations set by the City of Rolling Fields. Mr. Griesbeck stated they feel this would set a bad precedent and change the landscape and feel of the neighborhood (see recording for detailed presentation).

01:26:00 David Dunn spoke in opposition of the request. Mr. Dunn stated they had agreed to a six foot setback and a one and a half car garage and they were hopeful they were in agreement, but clearly that was not the case. Mr. Dunn stated it would negatively change the character of the street if this garage were built to its current mass and size (see recording for detailed presentation).

01:29:04 Edward Jay spoke in opposition of the request. Mr. Jay stated he is directly across the street from this proposed variance and he is adamantly opposed to this. Mr. Jay stated he agrees with everything the neighbors have said (see recording for detailed presentation).

The following spoke neither for nor against the request:

Councilwoman Paula McCraney, 7115 Chippenham Road, Louisville, KY 40222

Summary of testimony of those neither for nor against:

01:33:03 Councilwoman Paula McCraney spoke neither for nor against the request. Councilwoman McCraney stated she wanted to let her neighbors know that she is listening to the entire debate. Councilwoman McCraney stated she wanted to acknowledge that District 7 is a unique district in that it is fully developed and is very much entrenched in its tradition. Councilwoman McCraney stated she would want to see the integrity of any neighborhood to remain in tact and the neighbors work together in unison in order to maintain the integrity of District 7 (see recording for detailed presentation).

REBUTTAL:

01:35:52 Mr. Harden and Mr. Jones spoke in rebuttal. Mr. Harden stated it is four feet at one point, it is not a parallel line. Mr. Jones stated there have been a lot of

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comments that it takes away from the character, but it's not without precedent. Mr. Jones stated across the street three of those houses have front loaded garage doors. Mr. Harden read from an email from David Dunn stating Rolling Fields Building Committee has decided to take no further action on this case and would rely on the decision that BOZA makes. Mr. Harden stated he has tried to comply with the neighborhood and he's very sorry that his neighbors are so opposed to it. Mr. Jones stated no matter wherever they place the garage they are still going to be stuck doing a variance just because of site limitations. Mr. Jones responded to questions from the Board Members (see recording for detailed presentation).

01:48:00 Member Leanhart stated for the record that they did receive several letters of support (see recording for detailed presentation).

01:49:00 Board Members' deliberation

01:59:34 A motion was made by Vice Chair Seale that Case Number 21-VARIANCE-0099 be **DENIED**. Vice Chair Seale **WITHDREW** the motion before it was seconded.

02:04:49 On a motion by Member Buttorff, seconded by Member Bond, the following resolution, based upon the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will alter the essential character of the general vicinity, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant as the proposed addition could be relocated to the rear of the existing structure; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0099 does hereby **DENY** Variance from Land Development Code Table 5.3.1 to allow an addition to a principal structure to encroach into the required side yard setback.

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The vote was as follows:

Yes: Members Buttorff, and Bond

Abstain: Vice Chair Seale

No: Member Leanhart, and Chair Howard

Absent: Member Vozos

02:07:23 After further discussion the abstention vote was changed, and the final vote was as follows:

Yes: Members Buttorff, Bond, and Vice Chair Seale

No: Member Leanhart, and Chair Howard

Absent: Member Vozos

02:10:15 Meeting was recessed.

02:10:29 Meeting was reconvened.

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CASE NUMBER 21-VARIANCE-0101

Request:	Variances to allow a detached garage to exceed the accessory structure use area and to reduce the private yard area to be less than the required 30% of the area of the lot
Project Name:	S. Ewing Avenue Variance
Location:	318 S. Ewing Avenue
Owner:	Jade Ashley
Applicant:	Charlie Williams – Charlie Williams Design
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 5th Street.)

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

Agency testimony:

02:11:03 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 follow spoke in favor of the request:

Charlie Williams, 1626 Windsor Pl., Louisville, KY 40204

Summary of testimony of those in favor:

02:16:49 Charlie Williams 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 21-VARIANCE-0101

02:19:25 Board Members' deliberation

02:19:40 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, because the proposed structure 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 Clifton Architectural Review Committee approved the structure, 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 there is significant open space to the rear of the proposed accessory structure that cannot be included in the private yard area calculation. The lot is 300 ft. +/- in depth so moving the structure further back would be unreasonable; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0101 does hereby **APPROVE** Variance from Land Development Code sections 5.4.1.D.2 to allow the private yard area to be less than the required 30% of the area of the lot and 5.4.1.E.1 to allow the accessory structure use area to exceed a depth of 60 ft. (**Private Yard Requirement 16,668.16 sq. ft., Request 5,000.448 sq. ft., Variance 11,667.712 sq. ft.; Accessory Structure Area Requirement 60 ft., Request 78.72 ft., Variance 18.72 ft.**).

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0102

Request:	Variance to allow an existing detached garage to encroach into the required side yard setback
Project Name:	Fairlawn Road Variance
Location:	425 Fairlawn Road
Owner:	Kristin & Jarrod Heinsohn
Applicant:	Austyn Holderfield – Holderfield Construction
Jurisdiction:	City of St. Matthews
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 5th Street.)

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

Agency testimony:

02:22:23 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:

Austyn Holderfield, 101 Crescent Ave., Louisville, KY 40206

Summary of testimony of those in favor:

02:27:26 Austyn Holderfield 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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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0102

02:30:55 Board Members' deliberation

02:31:14 On a motion by Member Bond, 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 garage currently exists, which has caused no known adverse effects, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the garage has been in its current position for many years and other properties in the neighborhood have garages with similar setbacks, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the setbacks of the existing garage are not changing, which have caused no known hazard or nuisance, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the current setback is an existing condition which is proposed to be maintained; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-Variance-0102 does hereby **APPROVE** Variance from City of St. Matthews Development Code Section 4.6.C.2.b to allow an existing accessory structure to encroach into the required side yard setback (**Side Yard Requirement 6 ft., Request 0 ft., Variance 6 ft.**).

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0105

Request:	Variance to allow an addition to a principal structure to encroach into the side yard setback
Project Name:	Mulberry Street Variance
Location:	1136 Mulberry Street
Owner:	Alfred & Angelica Pizzonia
Applicant:	Lindsey Stoughton – LMS Design
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
Case Manager:	Zach Schwager, Planner I

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

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

Agency testimony:

02:33:30 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:

No one spoke.

The following spoke in opposition of the request:

No one spoke.

02:40:07 Board Members' deliberation

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CASE NUMBER 21-VARIANCE-0105

02:40:26 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, because the proposed addition must be constructed to comply with all building codes, including fire codes; however, staff is concerned that the variance could adversely affect the adjacent property owner because construction and maintenance of the structure may require encroachment onto the property, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as there are multiple other properties in the area with similar designs. The addition will also be setback the same distance from the property line as the existing structure, 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 subject property is only 20 ft. in width and the addition will not encroach any further than the existing structure; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0105 does hereby **APPROVE** Variance from Land Development Code Section 5.1.10.F to allow a structure to encroach into the required side yard setback (**Western Side Yard Requirement 2 ft., Request 1 inch, Variance 1 ft. 11 inches**).

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0106

Request:	Variance to allow a principal structure to exceed the infill front yard setback
Project Name:	Cane Run Road Variance
Location:	4853 Cane Run Road
Owner/Applicant:	Ameer Lewis
Jurisdiction:	Louisville Metro
Council District:	1 – Jessica Green
Case Manager:	Zach Schwager, Planner I

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

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

Agency testimony:

02:42:34 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:

Ameer Lewis, 1501 Oleanda Ave., Louisville, KY 40215

Summary of testimony of those in favor:

02:46:51 Ameer Lewis spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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CASE NUMBER 21-VARIANCE-0106

02:52:39 Board Members' deliberation

02:52:55 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, because the proposed structure 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 there are a variety of development patterns and land uses 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 lot is much deeper than any of the surrounding properties; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0106 does hereby **APPROVE** Variance from Land Development Code Section 5.1.12.B.2.a to allow a principal structure to exceed the infill front yard setback (**Infill Front Yard Requirement 23 ft. to 30 ft., Request 270 ft., Variance 240 ft.**).

The vote was as follows:

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

No: Vice Chair Seale

Absent: Member Vozos

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0113

Request:	Variance to allow a principal structure to encroach into the side yard setback
Project Name:	Barret Avenue Variance
Location:	947 Barret Avenue
Owner/Applicant:	Shane Kibbe
Representative:	Kathy Matheny
Jurisdiction:	Louisville Metro
Council District:	8 – Cassie Chambers Armstrong
Case Manager:	Heather Pollock, 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:

02:55:08 Heather Pollock presented the case and showed a Powerpoint presentation. Ms. Pollock responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Kathy Matheny, 9009 Preston Highway, Louisville, KY 40219
Stephanie Sprigler, 949 Barret Ave., Louisville, KY 40204
Gary Jacobs, 1820 Alfresco Pl., Louisville, KY 40205

Summary of testimony of those in favor:

02:59:55 Kathy Matheny 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 21-VARIANCE-0113

03:05:08 Stephanie Sprigler spoke in favor of the request. Ms. Sprigler stated if the applicant could give them an estimated start and end date for the construction that would be helpful (see recording for detailed presentation).

03:06:00 Gary Jacobs 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.

REBUTTAL:

03:07:43 Kathy Matheny responded to Ms. Sprigler's concerns regarding the time frame for construction. Chair Howard asked Ms. Sprigler if Ms. Matheny's response was satisfactory and Ms. Sprigler stated it was (see recording for detailed presentation).

03:09:32 Board Members' deliberation

03:09:41 On a motion by Member Buttorff, 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, because the proposed structure must be constructed to comply with all building codes, including fire codes; however, staff is concerned that the variance could adversely affect the adjacent property owner because construction and maintenance of the structure may require encroachment onto the property; **the Board received testimony from the adjacent property owner who gave permission to allow the applicant to access their property for construction and maintenance**, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the addition will encroach the same distance as the existing structure, and

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CASE NUMBER 21-VARIANCE-0113

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 subject property is only 25 ft. in width and the addition will not encroach any further than the existing structure; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0113 does hereby **APPROVE** Variance from Land Development Code Table 5.2.2 to allow a principal structure to encroach into the side yard setback (**Side Yard Requirement 2.5 ft., Request 1.07 ft., Variance 1.43 ft.**).

The vote was as follows:

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

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CASE NUMBER 21-VARIANCE-0119

Request:	Variance to allow an addition to an existing principal structure and the principal structure to exceed the maximum setbacks on all frontages
Project Name:	Brent Street Variance
Location:	712 Brent Street
Owner:	PPT IV, LLC
Applicant:	Kelli Jones – Sabak, Wilson & Lingo, Inc.
Jurisdiction:	Louisville Metro
Council District:	4 – Jecorey Arthur
Case Manager:	Zach Schwager, Planner I

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

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

Agency testimony:

03:11:36 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:

Kelli Jones, 608 S. 3rd St., Louisville, KY 40202
Michael Gastineau, 117 S. Shelby St., Louisville, KY 40202

Summary of testimony of those in favor:

03:14:06 Kelli Jones spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

03:22:53 Michael Gastineau responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

03:26:11 Board Members' deliberation

03:26:38 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 requested variance will not adversely affect the public health, safety or welfare, because the proposed structure 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 there are a variety of development patterns and land uses 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 lot is unique in shape and location with an existing building that the proposed additions will bring more into compliance with the Land Development Code; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0119 does hereby **APPROVE** Variances from Land Development Code section 5.5.1.A.2 to allow a principal structure to exceed the maximum setback along two frontages (**Corner Lot-Brent St. Requirement 5 ft., Request 63 ft., Variance 58 ft.; Corner Lot-Vine St. Requirement 5 ft., Request 71 ft., Variance 66 ft.**).

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The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 21-CUP-0124

Request:	Conditional Use Permit to allow a short term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Panella Short Term Rental
Location:	3150 Bohannon Avenue
Owner/Applicant:	Scott and Megan Panella
Jurisdiction:	Louisville Metro
Council District:	15 – Kevin Triplett
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:

03:28:40 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:

Scott Panella, 10204 Stone School Rd., Prospect, KY 40059

Summary of testimony of those in favor:

03:32:20 Scott Panella spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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CASE NUMBER 21-CUP-0124

03:37:05 Board Members' deliberation

03:37:30 On a motion by 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 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

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:

4.2.63 Short Term Rental Term Rental of a dwelling unit that is not the primary residence of the host or the Short Term Rental of a condominium unit that is the primary residence of the host in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 or R-8A district and Short Term Rental of any dwelling unit in a TNZD district may be allowed upon the granting of a Conditional Use Permit. In addition to any conditions of approval, a short term rental and its host shall meet the following requirements:

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental. **The applicant has been informed of this requirement.**
- B. The dwelling unit shall be limited to a single short term rental contract at a time. **The applicant has been informed of this requirement.**
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **The subject property is not larger than two acres. The applicant states that the residence has two bedrooms that will allow a maximum number of six guests.**

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- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, within 600' of the subject property, there are no properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host.**
- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The applicant has been informed of this requirement.**
- F. Food and alcoholic beverages shall not be served by the host to any guest. **The applicant has been informed of this requirement.**
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts. **The applicant has been informed of this requirement.**
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **The site has credit for on street parking and there appears to be ample parking along the street. The applicant states that there is a detached 2-car garage at the rear of the property along the alley.**
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances. **The applicant has been informed of this requirement.**

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- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief. **The applicant has been informed of this requirement.**
- K. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental pursuant to the Louisville Metro Code of Ordinances. If the short term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void. **The applicant has been informed of this requirement.**
- L. An active registration for the short term rental, as required by the Louisville Metro Code of Ordinances, shall be maintained. No short term rentals may take place unless the registration is active and in the name of the current host and property owner. If the registration is not renewed and lapses for six months, or in the event of a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by this Land Development Code. **The applicant has been informed of this requirement;** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0124 does hereby **APPROVE** Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in an R-6 zoning district and Traditional Neighborhood Form District, **SUBJECT** to the following Condition of Approval.

Condition of Approval:

1. The conditional use permit for this short term rental approval shall allow up to two bedrooms. A modification of the conditional use permit shall be required to allow additional bedrooms.

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The vote was as follows:

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

Absent: Member Vozos, and Chair Howard

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

Chair

Secretary