

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

August 21, 2017

A meeting of the Louisville Metro Board of Zoning Adjustment was held on August 21, 2017 at 8:30 a.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Mike Allendorf, Chair
Rosalind Fishman, Secretary
Lula Howard
Lester Turner

Members Absent:

Betty Jarboe, Vice Chair
Dwight Young

Staff Members Present:

Brian Davis, Planning & Design Manager (left at approximately 8:46 a.m.)
Joe Haberman, Planning & Design Manager
Jon Crumie, Planning & Design Coordinator
Jay Luckett, Planner I
Beth Jones, Planner II
Paul Whitty, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

August 7, 2017 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:05:49 On a motion by Member Howard, seconded by Member Turner, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on August 7, 2017.

The vote was as follows:

Yes: Member Turner, and Chair Allendorf

Abstain: Members Howard, and Fishman

Absent: Members Young, and Vice Chair Jarboe

BOARD OF ZONING ADJUSTMENT MINUTES
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BUSINESS SESSION

CASE NUMBER 17CUP1046

Request:	Modified Conditional Use Permit to allow the expansion of an assisted living facility in an R-4 zoning district
Project Name:	Glen Ridge Healthcare Campus Expansion
Location:	6415 Calm River Way
Owner:	Trilogy Real Estate Kentucky
Applicant:	Trilogy Real Estate Kentucky
Representative:	Chris Schipper
Jurisdiction:	Louisville Metro
Council District:	20 – Stuart Benson
Case Manager:	Jon E. Crumbie, Planning and Design Coordinator

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

00:07:09 Jon Crumbie presented the case and showed the site plan (see recording for detailed presentation).

00:09:19 On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the applicable policies of the Comprehensive Plan, and

WHEREAS, the Board further finds that the proposal is compatible with the general character of the surrounding neighborhoods in terms of scale, intensity, traffic, noise, drainage and appearance, and

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WHEREAS, the Board further finds that the proposal has been reviewed by MSD and Transportation Planning and both have approved the plan. The Jeffersontown Fire Protection District did not comment on the proposal, and

WHEREAS, the Board further finds that:

Nursing Homes and 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. There are three requirements and all will be met.

- 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 Adjustments shall add any restrictions to mitigate nuisances or adverse effects; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1046 does hereby **APPROVE** Modification of an approved Conditional Use Permit to allow the expansion of an assisted living facility in an R-4 zoning district, based upon the presentation and the Staff Report, 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. A continuous evergreen hedge shall be installed by the entrance road that parallels Billtown Road.
- 3. Three trees per linear foot shall be installed along the perimeter of the property.
- 4. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within one year of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for an assisted living facility without further review and approval by the Board.

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CASE NUMBER 17CUP1046

The vote was as follows:

Yes: Members Fishman, Turner, Howard, and Chair Allendorf

Absent: Member Young, and Vice Chair Jarboe

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PUBLIC HEARING

CASE NUMBER 17DEVPLAN1088

Request:	Cat-3 Development plan with Variance for infill setback standards and Waiver for LBA
Project Name:	110 Weisser Ave
Location:	110 Weisser Ave
Owner:	Tony Holland
Applicant:	Prime Design Build
Representative:	Ann Richard – LD&D
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Jay Lockett, Planner I

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

Agency Testimony:

00:11:09 Jay Lockett requested a continuance to the September 11, 2017 Board of Zoning Adjustment meeting on behalf of the applicant (see recording for detailed presentation).

00:13:13 On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 17DEVPLAN1088 to the **September 11, 2017** Board of Zoning Adjustment meeting.

The vote was as follows:

Yes: Members Fishman, Turner, Howard, and Chair Allendorf
Absent: Member Young, and Vice Chair Jarboe

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PUBLIC HEARING

CASE NUMBER 17VARIANCE1048

Request:	Variance for parking expansion
Project Name:	Primrose School
Location:	1151 Dorsey Lane
Owner:	Four Almonds, LLC
Applicant:	Four Almonds, LLC
Representative:	Bardenwerper, Talbott, & Roberts PLLC
Jurisdiction:	City of Lyndon
Council District:	18 – Marilyn Parker
Case Manager:	Joel Dock, 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.

Agency Testimony:

00:14:46 Jay Luckett presented the case on behalf of the Case Manager, Joel Dock, and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223

Summary of testimony of those in favor:

00:17:14 Nick Pregliasco spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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PUBLIC HEARING

CASE NUMBER 17VARIANCE1048

00:21:09 Board Members' deliberation

00:21:30 On a motion by Member Howard, seconded by Member Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect public health safety or welfare as the encroachments will be internal to the subject site, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the parking is in-line with the existing eleven spaces which have previously received a variance for their location, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the encroachments will not cause a visual nuisance or impediments to vehicular and pedestrian traffic, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed location of the parking spaces does not create a conflict with the abutting vacant commercial zoning district with respect to compatibility of uses, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as the [provision of parking elsewhere on the site may decrease the amount of outdoor activity space for the daycare, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as appropriate relief is being requested from the Board of zoning Adjustment; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1048 does hereby **APPROVE** Variance from Land Development

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CASE NUMBER 17VARIANCE1048

Code Section 5.3.5.C.3.c to encroach 13' into the required 20' rear yard setback, based upon the testimony heard today and the Staff Report.

The vote was as follows:

Yes: Members Fishman, Turner, Howard, and Chair Allendorf
Absent: Member Young, and Vice Chair Jarboe

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PUBLIC HEARING

CASE NUMBER 17VARIANCE1047

Request:	Variance to allow a private yard area to be less than the required 30% of the lot area
Project Name:	321 S Peterson Avenue Garage
Location:	321 S Peterson Avenue
Owner:	Benjamin & Amanda Brainard
Applicant:	Benjamin Brainard
Representative:	Benjamin Brainard
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Dante St. Germain, Planner I

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

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

Agency Testimony:

00:23:18 Joe Haberman presented the case on behalf of the Case Manager, Dante St. Germain, and showed a Powerpoint presentation. Mr. Haberman responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Benjamin Brainard, 321 S. Peterson Ave., Louisville, KY 40206

Summary of testimony of those in favor:

00:28:41 Benjamin Brainard 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 17VARIANCE1047

The following spoke in opposition of the request:

No one spoke.

00:31:46 Board Members' deliberation

00:33:59 On a motion by Member Turner, seconded by Member Howard, the following resolution 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 significant open space will be retained, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the reduction in private yard area requested is relatively small, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as significant open space will remain, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the size of the subject property requires a larger private yard area compared with comparable nearby lots, and the proposed garage will be generally in line with other garages on the same block face, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the lot is regular in size and has no known topographical constraints, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the garage has not yet been constructed and the applicant is requesting a variance, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

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CASE NUMBER 17VARIANCE1047

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1047 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.2 to allow a private yard area in the Traditional Neighborhood form district to be less than the required 30% of the area of the lot (**Requirement 3,470.94 sf [30%], Request 3,000 sf [25.9%], Variance 470.94 sf [4.1%]**), based upon the applicant's justification statement and presentation, and the Staff Report.

The vote was as follows:

Yes: Members Fishman, Turner, Howard, and Chair Allendorf

Absent: Member Young, and Vice Chair Jarboe

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PUBLIC HEARING

CASE NUMBER 17VARIANCE1042

Request:	Variance to allow a structure to encroach into the required side yard setback
Project Name:	3826 Staebler Avenue Garage
Location:	3826 Staebler Avenue
Owner:	Wayne & Theresa Hall
Applicant:	Wayne Hall
Representative:	Wayne Hall
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Dante St. Germain, 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:

00:36:35 Beth Jones presented the case on behalf of the Case Manager, Dante St. Germain, and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Wayne Hall, 3826 Staebler Avenue, Louisville, KY 40207

Summary of testimony of those in favor:

00:41:00 Wayne Hall spoke in favor of the request and responded to questions from the Board Members. Joe Haberman responded to an inquiry from Mr. Hall as to when Minutes of this meeting will be available (see recording for detailed presentation).

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CASE NUMBER 17VARIANCE1042

The following spoke in opposition of the request:

No one spoke.

00:43:38 Board Members' deliberation

00:44:15 On a motion by Member Howard, seconded by Member Fishman, the following resolution 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 is existing and 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 present in the neighborhood for several decades and forms a part of the essential character of the neighborhood, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the garage is existing and has caused no known hazards or nuisances, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the garage has been in place for several decades and the applicant requests a variance only to bring the existing conditions into compliance, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the garage has existed for several decades and the only changes proposed to the property are to the principal structure, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the applicant to demolish and re-build the garage in a new location on the lot in order to obtain a building permit for renovations to the principal structure, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation

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from which relief is sought as the garage existed for many years prior to the adoption of the zoning regulation, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1042 does hereby **APPROVE** Variance from City of St. Matthews Development Code Section 4.7.C.2.b to allow a structure to encroach into the required side yard setback (**Requirement 5 feet, Request 2.33 feet, Variance 2.67 feet**), based upon the Staff Report and the applicant's justification and presentation.

The vote was as follows:

Yes: Members Fishman, Turner, Howard, and Chair Allendorf

Absent: Member Young, and Vice Chair Jarboe

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PUBLIC HEARING

CASE NUMBER 17VARIANCE1041

Request:	Variance to allow a structure to encroach into the required rear setback
Project Name:	9509 Chadbourn Court Garage
Location:	9509 Chadbourn Court
Owner:	Noreem Properties LLC
Applicant:	Bluegrass Garage Builders
Representative:	Joe Willis
Jurisdiction:	Louisville Metro
Council District:	7 – Angela Leet
Case Manager:	Dante St. Germain, 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:

00:47:30 Beth Jones presented the case on behalf of the Case Manager, Dante St. Germain, 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:
Joe Willis, 9509 Chadbourn Court, Louisville, KY

Summary of testimony of those in favor:

00:51:50 Joe Willis 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 17VARIANCE1041

The following spoke in opposition of the request:

No one spoke.

00:53:00 Board Members' deliberation

00:53:21 On a motion by Member Fishman, seconded by Member Howard, the following resolution 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 must be constructed according to building code, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as there are other accessory structures in the immediate vicinity that have a similar location on their respective properties, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the garage will have to be constructed to building code, 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 reasonable location on the property where a detached garage could be constructed, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the lot is a corner lot with the house oriented toward the street side yard, providing little space in the side and rear yards for construction, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by preventing the applicant from constructing a garage sufficient to the applicant's needs, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation

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from which relief is sought as the applicant acquired the property in 2006, well after the building was constructed in 1969 to be oriented to the street side yard, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1041 does hereby **APPROVE** Variance from Land Development Code Section 5.4.2.C.3.a to allow a structure to encroach into the required 5 foot rear setback (**Requirement 5 feet, Request 3 feet, Variance 2 feet**), based upon the presentation, the Staff Report, and the applicant's justification.

The vote was as follows:

Yes: Members Fishman, Turner, Howard, and Chair Allendorf

Absent: Member Young, and Vice Chair Jarboe

00:55:10 Meeting was recessed.

00:55:36 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 17CUP1050

Request:	Modify CUP boundary to accommodate enlarged detention basin
Project Name:	Holy Trinity Catholic Church
Location:	423 Cherrywood Rd
Owner:	Roman Catholic Church of Louisville
Applicant:	Bruce Hines
Representative:	Blomquist Design Group LLC
Jurisdiction:	St. Matthews
Council District:	7 – Angela Leet
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.

Agency Testimony:

00:56:18 Beth Jones presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Marv Blomquist, 10529 Timberwood Circle, Suite D, Louisville, KY 40223

Summary of testimony of those in favor:

01:03:04 Marv Blomquist spoke in favor of the request and showed a Powerpoint presentation. Mr. Blomquist responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 17CUP1050

01:10:18 Beth Jones responded to a question from Chair Allendorf regarding the Conditions of Approval listed in the Staff Report (see recording for detailed presentation).

01:12:21 Mr. Blomquist responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:
Sharon Carey, 4112 Ormond Road, Louisville, KY 40207

Summary of testimony of those in opposition:

01:14:31 Sharon Carey spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

01:20:14 Marv Blomquist spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

01:24:49 Board Members' deliberation

01:36:01 On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested modification is consistent with Comprehensive Plan policies, and

WHEREAS, the Board further finds that the modification will not significantly alter existing conditions on the site or increase incompatibility with adjoining land uses, and

WHEREAS, the Board further finds that existing public facilities are adequate and will not be significantly impacted by the requested modification, and

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WHEREAS, the Board further finds that BOZA previously found adequate justification to grant the existing CUP (B-292-99). The modification request does not significantly alter the use of the property or increase incompatibility with adjoining land uses, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1050 does hereby **APPROVE** Modification of a Conditional Use Permit for a minor earth fill to accommodate the enlargement/relocation of an existing detention basin, based upon the Staff Report, the applicant's justification statement and the site plan, 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. 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 one year of the BOZA vote on this case. If the Conditional Use Permit is not so exercised, the proposed development shall not proceed without further BOZA review and approval.
3. All development shall be implemented in strict accordance with the existing landscaping plan as approved by the Board of Zoning Adjustment (BOZA) at its January 22, 2002 meeting (Docket No. B-257-01).
4. The applicant shall accommodate the neighbors' concerns to the extent possible in the final design of the walking path.

The vote was as follows:

Yes: Members Fishman, Howard, and Chair Allendorf

No: Member Turner

Absent: Member Young and Vice Chair Jarboe

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CASE NUMBER 17CUP1020

Request:	CUP for a Private Proprietary Club
Project Name:	Factory Lane
Location:	13501 & 13613 Factory Lane
Owner:	James Klemenzen
Applicant:	STC Management
Representative:	Dinsmore & Shohl LLC
Jurisdiction:	Louisville Metro
Council District:	17 – Glen Stuckel
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.

Agency Testimony:

01:38:05 Beth Jones presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Cliff Ashburner, 101 S. 5th Street, Louisville, KY 40202
Chris Mather, 9100 Shelbyville Road, Suite 200, Louisville, KY 40222

Summary of testimony of those in favor:

01:44:34 Cliff Ashburner spoke in favor of the request and showed a Powerpoint presentation. Mr. Ashburner responded to questions from the Board Members (see recording for detailed presentation).

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01:54:14 Chris Mather 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:

Victoria Loudon, 14024 Spring Mill Road, Louisville, KY 40245

Summary of testimony of those in opposition:

01:59:04 Victoria Loudon spoke in opposition of the request (see recording for detailed presentation).

REBUTTAL:

02:01:29 Cliff Ashburner spoke in rebuttal (see recording for detailed presentation).

02:03:53 Board Members' deliberation

02:10:21 On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that while not a residential use, the proposal provides a recreational opportunity to significant single and multi-family residential development in the immediate vicinity, and

WHEREAS, the Board further finds that the proposal meets all requirements for site and building design to enhance its compatibility with adjoining residential development, and

WHEREAS, the Board further finds that the site is located on a Secondary Collector and meets all transportation related requirements. The developer will be responsible for improvements to the public roadway as recommended by the traffic study. While there is no existing sewer connection to the property, MSD has issued preliminary approval of the plan, and

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WHEREAS, the Board further finds that:

Private Proprietary Clubs may be located in the 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-1, OR-2, OR-3, OTF, C-R or PTD Districts where such use is compatible in size and scale with surrounding land uses and where the lot contains at least 2 acres upon the granting of a Conditional Use Permit.

Tennis centers, racquetball clubs or similar operations requiring large structures to house the facilities shall have a development plan approved by the Planning Commission prior to filing an application for a Conditional Use Permit. **The site is located within an R-4 zone and exceeds the minimum requirement for lot size. LD&T approved the site plan as a committee of the Metro Planning Commission on August 10, 2017**

- A. All new buildings, structures and facilities shall be at least 30 feet from any property line. **The proposal exceeds this requirement with a minimum 50 ft. setback from all property lines.**
- B. Outdoor swimming pools shall be enclosed with a fence at least six feet high. **No outdoor swimming pools are included in the proposal.**
- C. All recreation areas or play fields and parking lots shall be separated from adjacent properties by a solid fence or dense evergreen shrubbery plantings at least five feet high. **No recreation areas or play fields are included in the proposal. The parking area along the western property line will meet all buffering requirements.**
- D. One sign only may be permitted showing the name and address of the club. An attached sign shall not exceed 30 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. A free-standing sign shall not exceed 20 square feet in area per side, shall not have more than two sides, and shall not exceed a height of six feet. Either an attached sign or a free-standing sign may be permitted, but not both. No sign shall project into any required yard. The sign may be illuminated but non-flashing. **Signage is not shown on the submitted plan. The applicant has been informed of this requirement and has indicated intent to comply through General Note 10,** and

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WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1020 does hereby **APPROVE** Conditional Use Permit for a Private Proprietary Club in an R-4 Zoning District (LDC 4.2.44), based upon the presentation, the Staff Report, the applicant's justification, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. All development shall be in accordance with the approved district development plan, including all notes thereon, and with all applicable sections of the Land Development Code (LDC). No further development shall occur on the site without prior review of and approval by the Board of Zoning Adjustment (BOZA).
2. The Conditional Use Permit shall be exercised as proscribed by KRS 100.237 within two years of BOZA approval. If it is not so exercised, the site shall not be used for a Private Proprietary Club without further review and approval by BOZA.

The vote was as follows:

Yes: Members Fishman, Turner, Howard, and Chair Allendorf

Absent: Member Young, and Vice Chair Jarboe

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CASE NUMBER 17CUP1040

Request:	Conditional Use Permit to allow a short term rental that is not the primary residence of the host in an R-5A zoning district
Project Name:	Short Term Rental
Location:	2018 Bonnycastle Avenue
Owner:	Janna Flowers
Applicant:	Shelley Cohn
Representative:	Shelley Cohn
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
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.

Agency Testimony:

02:11:55 Beth Jones presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:
Janna Flowers, 2838 Frankfort Ave., Louisville, KY 40206

Summary of testimony of those in favor:

02:14:57 Janna Flowers spoke in favor of the request and 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.

02:16:58 Board Members' deliberation

02:18:39 On a motion by Member Howard, seconded by Member Turner, the following resolution 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 proposal is compatible with surrounding development. No exterior alterations to the existing structure or site are proposed, 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:

A short term rental of dwelling unit that is not 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 a 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.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **LDC regulations permit up to six guests.**

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- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted. **The property meets this standard.**
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and 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. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **The parcel can be credited with two on-street parking spaces; four additional spaces are located off the alley at the rear of the property.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1040, does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the owner in an R5-A Residential Multi-Family Zoning District, based upon the presentation, the Staff Report and **SUBJECT** to the following Condition of Approval:

Condition of Approval

1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and shall establish an account with the Louisville Metro Revenue Commission. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.

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The vote was as follows:

Yes: Members Fishman, Turner, Howard, and Chair Allendorf

Absent: Member Young, and Vice Chair Jarboe

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CASE NUMBER 17CUP1042

Request:	Conditional Use Permit to allow off-street parking in an R-5 zoning district
Project Name:	None
Location:	4211 Poplar Level Road
Owner:	Patricia Redman Smith and Robert L. Redman
Applicant:	Aaron Watkins and Joanna Morse
Representative:	William Bardenwerper
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
Case Manager:	Jon E. Crumbie, Planning and Design Coordinator

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

02:19:48 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:

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223
Marv Blomquist, 10529 Timberwood Circle, Suite D, Louisville, KY 40223

Summary of testimony of those in favor:

02:23:42 Nick Pregliasco spoke in favor of the request and showed a Powerpoint presentation. Mr. Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

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02:32:56 Marv Blomquist responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

02:33:35 Board Members' deliberation

02:35:48 On a motion by Member Howard, seconded by Member Turner, the following resolution was adopted:

Conditional Use Permit to allow off-street parking in an R-5 Zoning District:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the applicable policies of the Comprehensive Plan. The required tree canopy and landscape requirements will be provided, and

WHEREAS, the Board further finds that the proposal is compatible with the general character of the surrounding neighborhoods in terms of scale, intensity, traffic, noise, drainage and appearance, and

WHEREAS, the Board further finds that the proposal has been reviewed by MSD and Transportation Planning and both have approved the plan. The Louisville #4 Fire Protection District did not comment on the proposal, and

WHEREAS, the Board further finds that:

An Off-Street Parking Area may be permitted in a district where it is ordinarily prohibited, provided it serves a use in a building for which insufficient off-street parking space is provided, and where the provision of such parking space will materially relieve traffic congestion on the streets and when developed in compliance with the listed requirements. There are six requirements and all have been met.

- A. The area shall be located within 200 feet of the property on which the building to be served is located measured by the shortest walking distance (using sidewalks and designated crosswalks).

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- B. Walls, fences, or plantings shall be provided in a manner to provide protection for and be in harmony with surrounding residential property.
- C. The minimum front, street side, and side yards required in the district shall be maintained free of parking.
- D. The area shall be used exclusively for transient parking of motor vehicles belonging to invitees of the owner or lessee of said lot.
- E. The approval of all plans and specifications for the improvement, surfacing, and drainage for said parking area will be obtained from the appropriate Director of Works prior to use of the parking area.
- F. The approval of all plans and specifications for all entrances, exits, and lights shall be obtained from the department responsible for transportation planning prior to the public hearing on the Conditional Use Permit, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1042 does hereby **APPROVE** Conditional Use Permit to allow off-street parking in an R-5 Zoning District, based upon the presentation, the Staff Report, the applicant's justification, 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 site shall not be used for off-street parking without further review and approval by the Board.

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The vote was as follows:

Yes: Members Fishman, Turner, Howard, and Chair Allendorf

Absent: Member Young, and Vice Chair Jarboe

02:37:17 On a motion by Member Howard, seconded by Member Turner, the following resolution was adopted:

Waivers to reduce the required landscape buffer area along the perimeter of the site:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners because additional landscaping will be placed in the area where the waiver is requested, and

WHEREAS, the Board further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants, 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 since the site layout

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allows the minimum area needed to allow the conditional use permit parking area, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulations would deprive the applicant of the reasonable use of land because the applicant would have to remove existing concrete parking and due to an access easement to the north of the site, no additional parking can be added except in the conditional use permit area, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1042 does hereby **APPROVE** Waivers to reduce the required landscape buffer area along the perimeter of the site (**East Property Line Requirement 35', Request 10', Waiver 25; South Property Line Requirement 35', Request 0', Waiver 35'**), based upon the presentation, the Staff Report and the applicant's justification.

The vote was as follows:

Yes: Members Fishman, Turner, Howard, and Chair Allendorf
Absent: Member Young, and Vice Chair Jarboe

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CASE NUMBER 14CUP1046

Request:	Conditional Use Permit to allow athletic fields in an R-4 zoning district
Project Name:	Horizon Sports Complex
Location:	8820 West Manslick Road and 8702 Peeble Lane
Owner:	Valley View Baptist Church
Applicant:	Valley View Baptist Church
Representative:	Mark Madison
Jurisdiction:	Louisville Metro
Council District:	14 – Cindi Fowler
Case Manager:	Jon E. Crumbie, Planning and Design Coordinator

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

02:38:33 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:

Mark Madison, 108 Daventry Lane, Louisville, KY 40223
Dewayne Drake, 9713 Anita Blvd., Louisville, KY 40272

Summary of testimony of those in favor:

02:43:36 Mark Madison spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

02:47:48 Dewayne Drake spoke in favor of the request (see recording for detailed presentation).

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02:50:10 Mark Madison 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:
Suzanne Miller Nolte, 104 Barberry Lane, Peachtree City, GA 30269

Summary of testimony of those neither for nor against:

03:01:14 Suzanne Miller Nolte spoke neither for nor against the request (see recording for detailed presentation).

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

REBUTTAL:

03:03:58 Mark Madison spoke in rebuttal (see recording for detailed presentation).

03:05:09 Board Members' deliberation

03:09:47 On a motion by Member Fishman, seconded by Member Turner, the following resolution was adopted:

Conditional Use Permit to allow an athletic facility in an R-4 Zoning District:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the applicable policies of the Comprehensive Plan. The required landscaping and buffering will be provided along the interior and perimeter of the proposal, and

WHEREAS, the Board further finds that the proposal is compatible with the general character of the surrounding neighborhoods in terms of scale, intensity, traffic, noise, drainage and appearance, and

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WHEREAS, the Board further finds that the proposal has been reviewed by MSD and Transportation Planning and both have approved the plan. The Fairdale Fire Protection District did not comment on the proposal, and

WHEREAS, the Board further finds that:

Indoor and outdoor athletic facilities as a principal use are permitted in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, R-5A, R-6, R-7, R-8A, M-1, M-2, and M-3 districts in compliance with the following requirements. The applicant will be asking to modify item F. and item H. Item G does not apply.

- A. The athletic facilities are located in a suburban form district; and
- B. Pedestrian and vehicular circulation patterns, including location of parking lots and driveways, must be designed to safely accommodate recreational users and avoid conflict with truck traffic, as determined by the Director of Works; and
- C. The applicant shall submit a lighting plan documenting compliance with Section 4.1.3 (Lighting ordinance); and
- D. No structure, parking area or outdoor recreation facility shall be located within 30 feet of a property line, unless further restricted in accordance with paragraph F below.
- E. Signs – Shall be in accordance with the on-premises sign standards of Chapter 8 of the LDC for non-residential uses.
- F. Athletic facilities in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, R-5A, R-6, R-7 and R-8A districts shall meet the following compatibility requirements:
 - 1. No outdoor athletic facility or parking area may be located closer than 100 feet to an adjacent property zoned for residential use. **The outdoor athletic facility and parking will be located 30 feet from the north property line, 30 feet from the east property line, 15 feet from the north property line along the entrance, 3 feet from the south property line along the entrance, 34 feet along the east property line where parking is located, 15 feet along the south property line, and 15 feet along the west property line adjacent to the rail road tracks.**

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2. No indoor athletic facility may be located closer than 50 feet to an adjacent property zoned for residential use. 3. The minimum tract size for an athletic facility shall be 10 contiguous acres.

G. Athletic facilities in the M-1, M-2 and M-3 districts subject to a conditional use permit may serve three purposes:

1. To allow a transitional use of industrially zoned land, while preserving the community's supply of industrially zoned property until such time as market demand justifies use of such property in a manner that will significantly meet the community's economic development needs;

2 To allow use of parcels for permanent open space or recreational purposes serving employees of an industrial development; or

3. To accommodate greenways or similar open space use of environmentally constrained land, with or without trail systems or other recreational facilities.

H. Thus, athletic facilities are permitted only when the applicant indicates which of the three purposes the proposed use will meet, and can demonstrate the following to the satisfaction of the Board of Zoning Adjustment or the Board's designee:

The facility will be used by the Church and its invitees.

1. If Transitional Use: The proposed athletic facilities do not entail construction of permanent facilities that are inconsistent with industrial use of the site.

2. If Permanent Open Space/Recreation Use: The site is an integral component of a multi-lot business or industrial park, and the recreation facilities primarily benefit persons working at the industrial park.

3. If Greenway or Environmentally Constrained: The site is subject to environmental constraints regulated in Chapter 4 Parts 6, 7, or 8, and is precluded from development by conservation easement or restriction on the development plan, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

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RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 14CUP1046 does hereby **APPROVE** Conditional Use Permit to allow an athletic facility in an R-4 Zoning District, based upon the presentation, the Staff Report, the applicant's justification, 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 site shall not be used for an athletic facility without further review and approval by the Board.
3. The gates will be locked and the lights will be turned off by 11:00 p.m.
4. The PA system is only for emergency announcements, not general announcements.

The vote was as follows:

Yes: Members Fishman, Turner, Howard, and Chair Allendorf

Absent: Member Young, and Vice Chair Jarboe

03:12:03 On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

Waivers to reduce the required 25 feet landscape buffer areas along the perimeter of the site:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the required landscaping will be provided, and

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WHEREAS, the Board further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants, 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 since the waivers will allow the ballfields to be regulation size, but still have a reasonable buffer from adjacent properties, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulations would deprive the applicant of the reasonable use of land since the number of ballfields would need to be reduced in size or eliminated, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 14CUP1046 does hereby **APPROVE** Waivers to reduce the required 25 feet landscape buffer areas along the perimeter of the site (**West Property Line Requirement 25', Request 15', Waiver 10', North Along Entrance Requirement 25', Request 15', Waiver 10', South Along Entrance Requirement 25', Request 3', Waiver 22', South Property Line Requirement**

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25', Request 15', Waiver 10'), based upon the Staff Report, and the applicant's justification.

The vote was as follows:

Yes: Members Fishman, Turner, Howard, and Chair Allendorf

Absent: Member Young, and Vice Chair Jarboe


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ADJOURNMENT

The meeting adjourned at approximately 11:53 a.m.



Chair



Secretary