

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

January 9, 2018

A meeting of the Louisville Metro Board of Zoning Adjustment was held on January 9, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Mike Allendorf, Chair
Betty Jarboe, Vice Chair
Rosalind Fishman, Secretary
Lester Turner
Dwight Young
Richard Buttorff

Members Absent:

Lula Howard

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Haberman, Planning & Design Manager
Steve Hendrix, Planning & Design Supervisor
Jon Crumbie, Planning & Design Coordinator
Beth Jones, Planner II
Dante St. Germain, Planner I
Paul Whitty, Legal Counsel
Travis Fiechter, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

**DECEMBER 18, 2017 BOARD OF ZONING ADJUSTMENT MEETING
MINUTES**

00:03:55 On a motion by Member Fishman, seconded by Member Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on December 18, 2017.

The vote was as follows:

**Yes: Members Fishman, Turner, Young, Buttorff, Vice Chair Jarboe, and
Chair Allendorf**

Absent: Howard

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PUBLIC HEARING

CASE NUMBER 17VARIANCE1071

Request:	Variance to allow a private yard area to be less than 20% of the area of a lot and variance to allow a structure to encroach into the required front yard setback
Project Name:	800 Ash Street Residence
Location:	800 Ash Street
Owner:	Michael & Elizabeth Revels
Applicant:	Deon Wells
Representative:	Deon Wells
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
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:

00:05:37 Dante St. Germain presented the case and showed a Powerpoint presentation. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:
Deon Wells, 534 Eastern Parkway, Louisville, KY

Summary of testimony of those in favor:

00:11:02 Deon Wells 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.

00:14:09 Board Members' deliberation

00:15:00 On a motion by Member Fishman, seconded by Member Young, the following resolution was adopted:

Variance from Land Development Code Section 5.4.1.D.3 to allow the private yard area of a lot to be less than the required 20% of the area of the lot:

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 private yard area will remain on the lot, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the subject property is very narrow in width and the proposed reduced private yard area will not be apparent from off-site, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the reduction in private yard area is relatively small, and significant private yard area will remain, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the lot is unusually small in width and total area, and the requested variance is relatively small, 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 because the lot is unusually small in width and total area, a circumstance which is not generally applicable to land in the general vicinity, 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 build an even smaller house than the one proposed on the lot, and

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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 applicant is requesting the variance and has not begun construction, and

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

Variance from Land Development Code Table 5.2.2 to allow a structure to encroach into the required front yard setback:

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 shape of the lot relative to the edge of pavement will not create a hazard at the corner, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as reduced setbacks are common in the traditional neighborhood form district, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the shape of the lot relative to the edge of pavement will not create a hazard at the corner, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the small size of the property requires a reduced setback in order to have a reasonably sized house on the lot, 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 because the lot is unusually small in width and total area, a circumstance which is not generally applicable to land in the general vicinity, 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 build an even smaller house than the one proposed on the lot, 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 is requesting the variance and has not begun construction, 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 17VARIANCE1071 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.3 to allow the private yard area of a lot to be less than the required 20% of the area of the lot (**Requirement 663.9 sf [20%]**, , **Request 399.5 sf [12%]**, **Variance 264.3 sf [8%]**), and Variance from Land Development Code Table 5.2.2 to allow a structure to encroach into the required front yard setback (**Requirement 15 ft.**, **Request 3.48 ft.**, **Variance 11.52 ft.**), based upon the Staff Report, the testimony, and the applicant's justification.

The vote was as follows:

Yes: Members Fishman, Turner, Young, Buttorff, Vice Chair Jarboe, and Chair Allendorf

Absent: Member Howard

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CASE NUMBER 17VARIANCE1102

Request:	Variance to allow a structure to encroach into the required front yard setback
Project Name:	1341 S Shelby Street Residence
Location:	1341 S Shelby Street
Owner:	Equity Trust Company Custodian FBO
Applicant:	Clarisa de Luna-Villaflor
Representative:	Clarisa de Luna-Villaflor
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
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:

00:17:33 Dante St. Germain presented the case and showed a Powerpoint presentation. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Clarisa De Luna-Villaflor, 11250 Cherry Lane, Louisville, KY 40223

Summary of testimony of those in favor:

00:21:14 Clarisa De Luna-Villaflor 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.

00:23:41 Board Members' deliberation

00:24:28 On a motion by Vice Chair Jarboe, seconded by Member Young, 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 there will be no obstruction of sight lines for drivers or pedestrians, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as front yard setbacks of less than 15 feet are common in the general vicinity, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as other buildings in the vicinity have reduced front yard setbacks, which has 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 small size of the property and its unusual shape requires a building of an adequate size to either have a reduced front yard setback or to have a reduced private yard area, 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 because the lot is unusually small and has an unusual shape, 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 pursue a variance for the private yard area instead of the front yard setback, 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 applicant is requesting the variance and has not begun construction, and

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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 17VARIANCE1102 does hereby **APPROVE** Variance from Land Development Code Table 5.2.2 to allow a structure to encroach into the required front yard setback (**Requirement 15 ft., Request 5 ft., Variance 10 ft.**), based upon the Staff Report, the applicant's justification statement and the complexity of the lot configuration.

The vote was as follows:

Yes: Members Fishman, Turner, Young, Buttorff, Vice Chair Jarboe, and Chair Allendorf

Absent: Member Howard

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CASE NUMBER 17VARIANCE1088

Request:	Variance to allow an accessory structure to encroach into the required minimum rear yard setback
Project Name:	2214 Boulevard Napoleon Garage
Location:	2214 Boulevard Napoleon
Owner:	Anne & Dan MacLean
Applicant:	Anne Del Prince
Representative:	Anne Del Prince
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
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.)

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Agency Testimony:

00:26:12 Dante St. Germain presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Anne Del Prince, 640 Country Club Road, Louisville, KY 40206

Summary of testimony of those in favor:

00:29:08 Anne Del Prince 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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00:32:03 **Board Members' deliberation**

00:32:31 On a motion by Member Fishman, 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 the public health, safety or welfare as the garage will have a greater setback than the existing garage, 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 immediate neighborhood is traditional in form despite being in a suburban form district, with detached garages common, 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 a greater setback than the existing garage which is to be removed, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the existing garage encroaches into the minimum rear yard setback to a greater degree than the proposed garage, 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 because the lot is regular in shape and of a similar size to other lots in the general vicinity, 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 applicant is requesting the variance and has not begun construction, 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 17VARIANCE1088 does hereby **APPROVE** Variance from Land Development

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Code Section 5.4.2.C.3.a to allow an accessory structure to encroach into the required minimum rear yard setback (**Requirement 5 ft., Request 3 ft., Variance 2 ft.**), based upon the Staff Report, the presentation, and the applicant's justification.

The vote was as follows:

Yes: Members Fishman, Turner, Young, Buttorff, Vice Chair Jarboe, and Chair Allendorf

Absent: Member Howard

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CASE NUMBER 17VARIANCE1096

Request:	Variance to allow a fence in the front yard setback to exceed 48 inches in height on double-frontage lots
Project Name:	Hartwick Village Place Fence
Location:	4201, 4203, 4205, 4207, 4209 & 4211 Hartwick Village Place
Owner:	Various
Applicant:	Carolyn Canfield-Smith
Representative:	Carolyn Canfield-Smith
Jurisdiction:	Louisville Metro
Council District:	17 – Glen Stuckel
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.)

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Agency Testimony:

00:34:03 Dante St. Germain presented the case and showed a Powerpoint presentation. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Carolyn Canfield-Smith, 4116 Hartwick Village Place, Louisville, KY 40241
Jack Kelly, 4109 Hartwick Village Place, Louisville, KY 40241
Brian Evans, 4201 Springhurst Blvd., Suite 204, Louisville, KY 40241

Summary of testimony of those in favor:

00:40:31 Carolyn Canfield-Smith and Jack Kelly spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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00:42:30 Brian Evans spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:42:50 Dante St. Germain responded to questions from the Board Members (see recording for detailed presentation).

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

00:43:33 Board Members' deliberation

00:44:10 On a motion by Vice Chair Jarboe, 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 the public health, safety or welfare as the fence will not obstruct sight lines for drivers on Simcoe Lane, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the character of the general vicinity is being altered by the Cityscape apartments development, and the new fence will be in character with the new 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 fence will not affect or create a hazard for drivers on Simcoe Lane, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the fence is needed to help obscure the view from the Cityscape apartments development to the houses on Hartwick Village Place, 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 because the new Cityscape apartments development is five stories in height, creating a privacy issue for the residents of the subject properties which does not exist elsewhere in the general vicinity, and

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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 obtaining a taller privacy fence as required of the Cityscape developer by binding element #8 under 15ZONE1070, 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 applicant is requesting the variance and has not begun construction, 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 17VARIANCE1096 does hereby **APPROVE** Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence in the required front yard setback to exceed 48 inches in height on double-frontage lots (**Requirement 4 ft., Request 8 ft., Variance 4 ft.**), based upon the Staff Report, the site plan, and the applicant's justification statement.

The vote was as follows:

Yes: Members Fishman, Turner, Young, Buttorff, Vice Chair Jarboe, and Chair Allendorf

Absent: Member Howard

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CASE NUMBER 17VARIANCE1099

Request:	Variance to allow a structure to encroach into the required side yard setback
Project Name:	940 Ellison Avenue Addition
Location:	940 Ellison Avenue
Owner:	Welch & Morley LLC
Applicant:	James K Morley
Representative:	James K Morley
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
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:

00:45:50 Dante St. Germain presented the case and showed a Powerpoint presentation. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Keith Morley, P.O. Box 5655, Louisville, KY 40255

Summary of testimony of those in favor:

00:49:26 Keith Morley 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 17VARIANCE1099

00:51:10 **Board Members' deliberation**

00:51:41 On a motion by Member Turner, 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 addition is proposed to be in-line with the existing principal structure, 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 reduced setbacks are common in the immediate neighborhood, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the addition is proposed to be in-line with the existing principal structure, which has 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 proposed addition will encroach into the required side yard setback to the same degree as the existing 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 from which relief is sought as the applicant is requesting the variance and has not begun construction, 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 17VARIANCE1099 does hereby **APPROVE** Variance from Land Development Code Table 5.2.2 to allow a structure to encroach into the required side yard setback (**Requirement 3 ft., Request 1 ft., Variance 2 ft.**), based upon the Staff Report, the applicant's testimony, and the applicant's justification.

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The vote was as follows:

**Yes: Members Fishman, Turner, Young, Buttorff, Vice Chair Jarboe, and
Chair Allendorf**

Absent: Member Howard

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CASE NUMBER 17VARIANCE1095

Request:	Variance to allow a structure to encroach into the required street side yard setback
Project Name:	401 Jarvis Lane Garage and Terrace
Location:	401 Jarvis Lane
Owner:	Nancy Murray
Applicant:	Patrick Wissing
Representative:	Patrick Wissing
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.)

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Agency Testimony:

00:53:13 Dante St. Germain presented the case and showed a Powerpoint presentation. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Pat Wissing, 206 Breckenridge Lane, Louisville, KY

Summary of testimony of those in favor:

00:57:05 Pat Wissing 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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01:00:06 **Board Members' deliberation**

01:00:18 On a motion by Member Fishman, seconded by Member Buttorff, 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 will not obstruct sight lines at the corner, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the garage will be partially below grade and the proposed terrace is in character with the surrounding neighborhood, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the garage will not create a hazard for vehicles turning at the corner, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as significant distance between the property line and the edge of pavement exists in this location, so that the proposed garage and terrace will be separated from the edge of pavement by more than the requested 10 foot setback, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may create an unnecessary hardship on the applicant by preventing the applicant from expanding the existing garage, 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 applicant is requesting the variance and has not begun construction; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1095 does hereby **APPROVE** Variance from Land Development Code Table 5.3.1 to allow a structure to encroach into the required street side yard setback (**Requirement 25 ft., Request 10 ft., Variance 15 ft.**), based upon the Staff Report, and the site plan and elevations.

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The vote was as follows:

**Yes: Members Fishman, Turner, Young, Buttorff, Vice Chair Jarboe, and
Chair Allendorf**

Absent: Member Howard

01:01:51 Meeting was recessed.

01:02:14 Meeting was reconvened.

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CASE NUMBER 17VARIANCE1097

Request:	Modification of a variance to allow a door to be constructed in an existing garage facing Moyle Hill Road
Project Name:	2195 Millvale Road Garage Door
Location:	2195 Millvale Road
Owner:	Michael McMahon
Applicant:	Michael McMahon
Representative:	Michael McMahon
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
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:

01:03:38 Dante St. Germain presented the case and showed a Powerpoint presentation. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Michael McMahon, 2195 Millvale Road, Louisville, KY 40205

Summary of testimony of those in favor:

01:21:09 Michael McMahon spoke in favor of the request and showed a Powerpoint presentation. Mr. McMahon responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke neither for nor against the request:

Laura Metzger, 2179 Moyle Hill Road, Louisville, KY 40205

Mary K. Korfhage, 2424 Douglass Blvd., Louisville, KY 40205

Summary of testimony of those neither for nor against:

01:52:03 Laura Metzger spoke neither for nor against the request and responded to questions from the Board Members (see recording for detailed presentation).

01:57:01 Mary Korfhage spoke neither for nor against 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:

02:01:02 Michael McMahon spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

02:06:25 Dante St. Germain responded to questions from the Board Members (see recording for detailed presentation).

02:07:00 **Board Members' deliberation**

02:15:58 On a motion by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

Modification of a Variance to remove Condition #1:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as a door on the Moyle Hill Road side of the garage will have no known adverse effect on the public health, safety or welfare, and

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WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the door will provide an additional animating feature on the side of the building that faces Moyle Hill Road, 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 the addition of a door will cause 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 zoning regulations do not address the door, and the condition of approval was placed by the Board of Zoning Adjustment, 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 because the lot is regular in shape and all properties on the north-east side of Millvale Road are double-frontage lots, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may create an unnecessary hardship on the applicant by requiring the applicant to continue to use the side door to access the upper story of the garage, which the applicant has indicated is a hardship due to a recent back surgery, 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 applicant is requesting the variance modification and has not begun construction, 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 17VARIANCE1097 does hereby **APPROVE** Modification of Variance Condition #1; Condition #1 shall be **REMOVED**, **SUBJECT** to the applicant submitting the configuration of the berm to Construction Review Staff (Codes & Regulations) for approval. If staff is unable to approve the plans for the berm, this case shall be brought back before the Board of Zoning Adjustment for reconsideration, based upon the Staff Report, the applicant's testimony and the applicant's justification statement.

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The vote was as follows:

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

02:24:47 On a motion by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

Modification of a Variance to remove Condition #3:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance may adversely affect the public health, safety or welfare as the landscaping on the Moyle Hill Road side of the garage provides screening only, and has no effect on the public health, safety or welfare; however, the safety rail required by the condition is needed to prevent cyclists and motorists from encountering a safety risk with respect to the drop off at the retaining wall which borders the driveway, and

WHEREAS, the Board further finds that the requested variance may alter the essential character of the general vicinity as the evergreen screen which softens the appearance of a large structure within six feet of the right- of-way may be disrupted without review by staff, and

WHEREAS, the Board further finds that the requested variance may cause a hazard or nuisance to the public as the safety rail required by the condition of approval is needed to prevent a possible hazard relating to the drop off at the retaining wall which borders the driveway, and landscaping is needed to mitigate the appearance of a large structure within six feet of the right-of-way, and

WHEREAS, the Board further finds that the requested variance will allow an unreasonable circumvention of the zoning regulations as the zoning regulations encourage landscaping to soften the appearance of large structures which are close to other properties or rights-of-way, and some landscaping could be maintained on the property with the current condition, as the condition only requires the applicant to work with staff on the landscaping plan, 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

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vicinity or the same zone because the lot is regular in shape and all properties on the north-east side of Millvale Road are double-frontage lots, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as the maintenance of the existing safety rail could be continued, and some landscaping could be maintained while still allow the construction of the door the applicant proposes, 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 applicant is requesting the variance modification and has not begun construction; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1097, does hereby **DENY** Modification of a Variance to remove Condition #3, based upon the previous Board's ruling that these items defined in Condition #3 were advantageous to the neighborhood and remain so, and the Staff Report.

The vote was as follows:

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

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CASE NUMBER 17CUP1005

Request:	Conditional Use Permit, variances, and landscape waivers to allow outdoor alcohol sales and consumption in a C-1 zoning district
Project Name:	Colonial Gardens
Location:	818 West Kenwood Drive
Owner:	Underhill Associates
Applicant:	Underhill Associates
Representative:	Jeff Rawlings
Jurisdiction:	Louisville Metro
Council District:	21 – Vitalis Lanshima
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:

02:27:10 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:

Jeff Rawlings, 748 E. Market Street, Louisville, KY 40202
Beth Thorpe, 5344 Westhall, Louisville, KY 40214
Robin Amsbary, 308 Kenwood Hill, Louisville, KY 40214
Rosemary Hauck McCandless, 418 West Kenwood Drive, Louisville, KY 40214
Barbara Nichols, 121 North Arbor Peak, Louisville, KY 40214

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Summary of testimony of those in favor:

02:37:47 Jeff Rawlins spoke in favor of the request and showed a Powerpoint presentation. Mr. Rawlins responded to questions from the Board Members (see recording for detailed presentation).

02:54:04 Barbara Nichols spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:57:00 Beth Thorpe spoke in favor of the request (see recording for detailed presentation).

02:59:05 Rosemary McCandless spoke in favor of the request (see recording for detailed presentation).

02:59:57 Robin Amsbary spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

03:00:37 Board Members' deliberation

03:02:28 On a motion by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

Conditional Use Permit to allow outdoor alcohol sales and consumption in a C-1 zoning district:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal meets all applicable policies of the Comprehensive Plan. Additional signage and lighting will be code compliant. A landscape plan for the entire development will be approved and implemented, and

WHEREAS, the Board further finds that the proposal is compatible with surrounding development with respect to scale, traffic, noise, odor, drainage, dust, lighting, and will be an improvement in appearance, and

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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. Transportation Planning and MSD have reviewed and approved the preliminary site plan, and

WHEREAS, the Board further finds that:

Outdoor alcohol sales and consumption and/or indoor live entertainment for a restaurant may be permitted in the C-1 zoning district upon the granting of conditional use permit and compliance with the listed requirements. **Items B., C., and D. do not apply.**

- A.** All outdoor areas for the sale and consumption of alcohol must have designated boundaries.
- B.** Outdoor dining areas within the public right-of-way must receive approval from the agency responsible for transportation engineering and shall be designed in accordance with agency standards.
- C.** Outdoor dining areas adjacent to the public right-of-way shall contain a physical barrier that is at least three feet in height. The barrier should be designed to permit existing legal access from building to the adjacent public right-of-way.
- D.** Outdoor dining areas that include the sale and consumption of alcohol within 50 feet of a residentially zoned or used property shall provide a six foot continuous screen as part of the designated boundary for the areas of the outdoor area within 50 feet of residentially used or zoned property. The continuous screen shall be in conformance with the Chapter 10, Part 4 (Implementation Standards).
- E.** This conditional use permit shall be limited to restaurant uses in the C-1 that hold the following types of ABC licenses:
1. Restaurant liquor and wine license by the drink for 100 plus seats
2. Restaurant wine license by the drink for restaurants with seating for 100 and receives at least 70 percent gross receipts from food sales

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- F.** The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 1 A.M.
- G.** The entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).
- H.** The Board may require additional and more restrictive requirements than those listed above based on the conditions of the specific location and the characteristics of the specific restaurant, 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 17CUP1005 does hereby **APPROVE** Conditional Use Permit to allow outdoor alcohol sales and consumption in a C-1 zoning district, based upon the Staff Report, the site plan, and the applicant's justification statement, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval

- A.** 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.
- B.** 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 outdoor alcohol sales and consumption without further review and approval by the Board.

The vote was as follows:

Yes: Members Fishman, Turner, Young, Buttorff, Vice Chair Jarboe, and Chair Allendorf

Absent: Member Howard

03:04:48 On a motion by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

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Variances to allow proposed structure to encroach into the required West Kenwood Drive front yard and New Cut Road street side yard:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect public health, safety or welfare since the new structures will serve as a complement to the existing historical corner structure, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the new structures will match the existing historical corner structure, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the sight triangle will not be disturbed, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since encroachments will not be noticeable from the street or sidewalk, and

WHEREAS, the Board further finds that the existing historical structure is a special circumstance since it will remain and the other development on site is trying to be compatible and build around the historical structure. Also the site is located on a corner within the Neighborhood Form District, and

WHEREAS, the Board further finds that the strict application of the regulation would create an unnecessary hardship on the applicant since the outdoor areas may have to be reduced to allow less people and or parking, and

WHEREAS, the Board further finds that the applicant is not responsible for the location of the historic structure on site, but is trying to develop the rest of the site to be compatible with the existing development, and

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

Landscape Waiver to reduce the required landscape buffer area (East Property Line):

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since the required tree plantings and screen will be provided, 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 proposal will increase the amount of green space and landscaping that currently exists on site, 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 because the parking area would need to be revised and spaces may be lost to meet the drive aisle requirement of 24 feet, and

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

Landscape Waiver to allow a reduction of ILA from 7.5% to 6.1%:

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

WHEREAS, the Board further finds that Guideline 13, Policy 5 calls for standards to ensure the creation and/or preservation of tree canopy as a valuable community resource. The purpose of interior landscape areas is to break up large impervious areas and allow for a greater distribution of tree canopy coverage, 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 proposal will increase the amount of green space and landscaping that currently exists on site, 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 because the parking area would need to be revised and spaces may be lost to meet the drive aisle requirement of 24 feet, and

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

Landscape Waiver to allow a dumpster in the required vehicular use area along West Kenwood Drive and reduce vehicle use area along portions of West Kenwood Drive and New Cut Road:

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

WHEREAS, the Board further finds that the waiver will not violate Guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. The waiver will not violate Guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the

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appearance of vehicular use areas and property abutting public rights-of way, 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 proposal will increase the amount of green space and landscaping that currently exists on site, 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 because the parking area would need to be revised and spaces may be lost to meet the drive aisle requirement of 24 feet, 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 17CUP1005 does hereby **APPROVE** Variances to allow proposed structure to encroach into the required West Kenwood Drive front yard and New Cut Road street side yard (**W. Kenwood Dr. Requirement 13'-1", Request 10', Variance 3'-1"; New Cut Road Requirement 12'-7", Request 14'-9", Variance 2'-2"**); Landscape Waiver to reduce the required Landscape Buffer Area (**East Property Line Requirement 15', Request 6', Waiver 9'**), and Landscape Waiver to reduce the Interior Landscape Area (**ILA-Entire Site Requirement 7.5%, Request 6.1%, Waiver 1.4%**); and Landscape Waivers to allow a dumpster in the required vehicular use area along West Kenwood Drive and reduce vehicle use area along portions of West Kenwood Drive and New Cut Road (**W. Kenwood Dr. [dumpster] Requirement 10', Request 0', Waiver 10'**), (**W. Kenwood Dr. Requirement 10', Request 0', Waiver 10'**), (**New Cut Road Requirement 10', Request 0', Waiver 10'**), based upon the Staff Report, the site plan, and the applicant's justification statement.

The vote was as follows:

Yes: Members Fishman, Turner, Young, Buttorff, Vice Chair Jarboe, and Chair Allendorf

Absent: Member Howard

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CASE NUMBER 17CUP1061

Request:	Conditional Use Permit and landscape waivers to allow off-street parking in an R-4 zoning district
Project Name:	Christi's
Location:	12500 Dixie Highway
Owner:	1812 Neville, LLC
Applicant:	1812 Neville, LLC
Representative:	Derek Triplett
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:

03:06:31 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:

Cliff Ashburner, 101 S. 5th Street, Louisville, KY 40202

Summary of testimony of those in favor:

03:10:05 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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The following spoke in opposition of the request:

No one spoke.

03:23:10 Board Members' deliberation

03:26:40 On a motion by Member Fishman, seconded by Vice Chair Jarboe, the following resolution was adopted:

Conditional Use Permit to allow off-street parking in an R-4 zoning district:

WHEREAS, the Louisville Metro Board of Zoning adjustment finds that The proposal is consistent with the Comprehensive Plan since the parking area will be paved and striped to meet Land Development Code requirements. Landscaping will be provided that will be Land Development Code compliant, 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 transportation Planning and MSD have reviewed and approved 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 seven requirements and six will be met. The applicant will be asking for relief for item C.

- 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).
- B.** Walls, fences, or plantings shall be provided in a manner to provide protection for and be in harmony with surrounding residential property.

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- C. The minimum front, street side, and side yards required in the district shall be maintained free of parking. **The required setback along the east and west property line is 25 feet. The parking will be located 5 feet from the east and west property lines.**
- 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 17CUP1061 does hereby **APPROVE** Conditional Use Permit to allow off-street parking in an R-4 zoning district, based upon the presentation, the Staff Report – noting relief from Item C (The required setback along the east and west property line is 25 feet; the parking will be located 5 feet from the east and west property lines), and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval

- A. 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.
- B. 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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- C. The applicant will provide plant materials for the landscaping, including the property to the north if the property owners to the north agree, as shown at the January 9, 2018 Board of Zoning Adjustment hearing.

The vote was as follows:

Yes: Members Fishman, Turner, Young, Buttorff, Vice Chair Jarboe, and Chair Allendorf

Absent: Member Howard

03:29:52 On a motion by Member Fishman, seconded by Vice Chair Jarboe, the following resolution was adopted:

Landscape Waivers to reduce the required landscape buffer area:

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

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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 is

irregular in shape and would not allow parking without the requested relief. Also the lot consists of two zoning district, R-4 and C-2. If entire site were C-2 a Conditional Use Permit would not be needed, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the application of the reasonable use of the land since the proposed restaurant site would not be able to support parking without the waiver; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1061 does hereby **APPROVE** Landscape Waivers to reduce the required landscape buffer area (**East Property Line Requirement 35', Request 5', Waiver 30'**), (**West Property Line Requirement 35', Request 5', Waiver 30'**), based upon the presentation, and the Staff Report.

The vote was as follows:

Yes: Members Fishman, Turner, Young, Buttorff, Vice Chair Jarboe, and Chair Allendorf

Absent: Member Howard

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CASE NUMBER 17CUP1093

Request:	Conditional Use Permit to allow a short term rental of a multi-family condominium that is the primary residence of the host in an R-7 zone
Project Name:	Short-Term Rental
Location:	1038 Brent Street
Owner:	Glenn Vicary
Applicant:	Glenn Vicary
Representative:	Glenn Vicary
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:

03:31:23 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:

Glenn Vicary, 1038 Brent Street, Unit 104, Louisville, KY 40204

Summary of testimony of those in favor:

03:36:23 Glenn Vicary 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.

03:38:52 Board Members' deliberation

03:39:07 On a motion by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

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

WHEREAS, the Board further finds that the proposal requires no exterior alterations to the existing structure and will not significantly alter the general character of the area, 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 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 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. **According**

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to the applicant, the unit contains two bedrooms. LDC regulations permit up to eight guests.

- D. The dwelling unit shall be a single-family residence or duplex or a condominium unit. If the short term rental is a condominium unit, the condominium 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. This evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board wherein all condominium owners were notified that short term rental of the subject 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 dwelling unit is a condominium unit. The applicant has provided the required documentation of approval by the condominium's Board or Directors.**
- 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. **Each condo owner has two parking spaces on-site, according to the applicant. There is no on-street parking associated with the property.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.

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CASE NUMBER 17CUP1093

- 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.

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1093 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a condominium unit that is the primary residence of the host in an R-7 zoning district (LDC 4.2.63), based upon the Staff Report, the applicant's submission of condo association approval, and the applicant's testimony, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval

- A. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not registered with Develop Louisville and with the Revenue Commission within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.
- B. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.

The vote was as follows:

Yes: Members Fishman, Turner, Young, Buttorff, Vice Chair Jarboe, and Chair Allendorf

Absent: Member Howard

BOARD OF ZONING ADJUSTMENT MINUTES
January 9, 2018

PUBLIC HEARING

CASE NUMBER 17CUP1085

Request:	Conditional Use Permit to allow off-street parking area within an R-4 zoning district and associated waivers, variance and reliefs
Project Name:	4141 Bardstown Road
Location:	4141 Bardstown Road
Owner:	4141 Bardstown Road LLC
Applicant:	4141 Bardstown Road LLC
Representative:	Bluestone Engineers PLLC
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
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.

01:02:16 NOTE: Chair Allendorf advised that this case has been RESCHEDULED for the January 22, 2018 Board of Zoning Adjustment hearing.

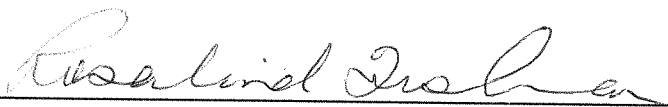
BOARD OF ZONING ADJUSTMENT MINUTES
January 9, 2018

ADJOURNMENT

The meeting adjourned at approximately 4:53 p.m.



Chair



Secretary