

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

June 8, 2020

A meeting of the Louisville Metro Board of Zoning Adjustment was held on June 8, 2020 at 1:00 p.m. online via Cisco Webex Video Teleconferencing.

Members Present:

Lula Howard, Chair
Richard Buttorff, Secretary
LiAndrea Goatley
Michael Seale
Lindsey Jagoe
Lester Turner, Jr. (Joined the hearing at 00:44:19)

Members Absent:

Kimberly Leanhart, Vice Chair

Staff Members Present:

Emily Liu, Director, Planning & Design Services
Brian Davis, Planning & Design Manager
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Jon Crumbie, Planning & Design Coordinator
Laura Ferguson, Legal Counsel

Minutes prepared by:

Chris Cestaro, Management Assistant

On the recommendation of the Louisville Metro Department of Public Health & Wellness regarding congregate events and social distancing, and as permitted by Commonwealth of Kentucky Senate Bill 150, the regularly scheduled June 8, 2020 Board of Zoning Adjustment meeting was held online.

The following cases were heard:

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May 18, 2020 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:06:02 On a motion by Member Goatley, seconded by Member Seale, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the June 1, 2020 Board of Zoning Adjustment online meeting.

The vote was as follows:

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

Absent: Members Turner and Vice Chair Leanhart

Abstain: Member Jagoe.

BOARD OF ZONING ADJUSTMENT MINUTES

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BUSINESS SESSION

BOZA Meeting Schedule

Approval of a change to the 2020 Board of Zoning Adjustment meeting schedule to add a Special Meeting on June 29, 2020.

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

00:08:38 On a motion by Member Seale, seconded by Member Goatley, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in does hereby **APPROVE** the requested change to the 2020 Board of Zoning Adjustment meeting schedule to add a Special Meeting on June 29, 2020.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Goatley, Seale, and Chair Howard

Absent: Members Turner and Vice Chair Leanhart

BOARD OF ZONING ADJUSTMENT MINUTES

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BUSINESS SESSION

CASE NUMBER 20-MCUP-0009

Request: Modified Conditional Use Permit
Project Name: Modified Conditional Use Permit
Location: 1001 Breckinridge Lane
Owner/Applicant: Andrew M. McCarthy, Norton Properties Inc.
Glenn Price, Frost Brown Todd LLC
Representative: Glenn Price, Frost Brown Todd LLC
Jurisdiction: Louisville Metro
Council District: 26 – Brent Ackerson
Case Manager: Lacey Gabbard, AICP, Planner I

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

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

Agency testimony:

00:09:58 Chris French presented the case on behalf of the Case Manager. Mr. French responded to questions from the Board Members (see staff report and recording for detailed presentation). Chair Howard noted that this is an extension of an expiration date to modify the Conditional Use Permit. It went before the Planning Commission on May 21, 2020.

00:11:46 On a motion by Member Jagoe, seconded by Member Goatley, the following resolution, based upon the Standard of Review and Staff Analysis, the applicant's justification statement, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that Development of the site did not occur during the prior period due to economic uncertainties regarding properties owned by Louisville-area healthcare providers, and the overall uncertainties of the growth of the local healthcare industry. Despite the delays, Norton stills plans to develop the Breckenridge Lane site as medical offices. **The Board finds that the testimony of the applicant's representative adequately justified this Standard of Review**, and

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BUSINESS SESSION

CASE NUMBER 20-MCUP-0009

WHEREAS, the Board further finds that the proposed modification is consistent with the Comprehensive Plan; and

WHEREAS, the Board further finds that the proposed modification is compatible with surrounding uses and with the general character of the area; and

WHEREAS, the Board further finds that the proposed development is consistent with expectations for the property and does not substantially increase demands on public infrastructure and facilities. The proposed modification has received preliminary approval from MSD and Transportation Planning; and

WHEREAS, the Board further finds that the proposal complies with the specific standards required to obtain the requested Conditional Use Permit:

4.2.39 Off-Street Parking Areas

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.

- 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.
- 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 of the Conditional Use Permit.

The request is associated with 4.2.39.A and 4.2.39.D.

Now, therefore be it

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BUSINESS SESSION

CASE NUMBER 20-MCUP-0009

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-MCUP-0009 does hereby **APPROVE** the requested modification of a Conditional Use Permit to allow parking in an R-4 zone (LDC 4.2.39) **SUBJECT** to the following Condition of Approval:

Conditions of Approval:

1. The site shall be developed in strict accordance 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.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Goatley, Seale, and Chair Howard

Absent: Members Turner and Vice Chair Leanhart

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BUSINESS SESSION

CASE NUMBER 20-DDP-0009

Request: Abandonment of Conditional Use Permit
Project Name: Quarry Warehouse
Location: 14105 Aiken Road
Owner(s): Frank Otte Otte Family LTD Partnership
Applicant: Derek Triplett, Land Design & Development
Jurisdiction: Louisville Metro
Council District: 19 – Anthony Piagentini
Case Manager: Lacey Gabbard, AICP, Planner I

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

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

Agency testimony:

00:13:06 In response to a question from Member Howard, Mr. French said that, typically, Abandonment requests are not usually given a Case Number. However, this request is associated with a development plan. The development proposal does not require a Conditional Use Permit, and is a requested use that is permitted in the zoning district.

00:14:09 In response to another question from Member Howard, Mr. French clarified that the correct site address is 14105 Aiken Road is the correct address (see recording for detailed discussion.)

00:15:55 On a motion by Member Seale, seconded by Member Goatley, the following resolution, based on testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that existing Conditional Use Permit on the subject tract is not applicable for the applicant's proposed future use; now, therefore be it

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CASE NUMBER 20-DDP-0009

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-20-DDP-0009 does hereby **APPROVE** the requested Abandonment of the Conditional Use Permit on the site.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Goatley, Seale, and Chair Howard

Absent: Members Turner, Jagoe, and Vice Chair Leanhart

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0035

Request: Variance to allow an addition to an existing structure to encroach into the side yard setback
Project Name: Marion Court Variance
Location: 3208 Marion Court
Owner(s): Joseph Rasche & Mary Gulick
Applicant: Anne DelPrince, DelPrince Design LLC
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
Case Manager: Zach Schwager, Planner I

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

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

Agency testimony:

00:17:24 Chris French presented the case on behalf of the Case Manager and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Anne DelPrince, 640 Country Club Road, Louisville, KY 40206

Summary of testimony of those in favor:

00:20:41 Anne DelPrince, the applicant, spoke in favor of the request (see recording for detailed presentation). She noted that the foundation is already existing, and the owner wants to build on top of the foundation. The existing foundation will be used for the new construction. She said there is a letter from the neighbor stating that, if any construction personnel need to stand on his property, he is fine with that.

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CASE NUMBER 20-VARIANCE-0035

00:22:51 In response to a question from Member Buttorff, Ms. DelPrince said she believes the front of the house is already in compliance. The back of the house had an addition put on it some time ago. She and Member Buttorff reviewed the plan (see recording.)

The following spoke in opposition of the request:

No one spoke.

00:28:09 Board Members' deliberation

00:29:07 On a motion by Member Goatley, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare, because the proposed addition must be constructed to comply with all building codes, including fire codes; and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as, the structure will be similar in size and scale compared to surrounding structures and will be constructed to be eligible for historic tax credits; and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the addition must be constructed to comply with all building codes; and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed addition will be constructed on the same foundation and will not encroach any further, which the applicant is required to do in order to be eligible for historic tax credits; and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to the land in the generally vicinity or the same zone as the lot is similar in size and shape as the surrounding properties; 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 as they would not be eligible for historic tax credits without building on the existing foundation; 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 20-VARIANCE-0035 does hereby **APPROVE** the requested Variance from Land Development Code table 5.2.2 to allow a principle structure to encroach into the required side yard setback (location is west side yard; requirement is 3 feet; the request is 1 foot 11 inches for a Variance of 1 foot 1 inch.)

The vote was as follows:

Yes: Members Buttorff, Jagoe, Goatley, Seale, and Chair Howard

Absent: Members Turner Vice Chair Leanhart

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0036

Request:	Variance from permitted height
Project Name:	Freestanding Sign
Location:	943 South First Street
Owner/Applicant:	Kentucky Colonels
Representative:	Sherry Crose
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Beth Jones, AICP, Planner II

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

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

Agency testimony:

00:30:42 Chris French presented the case on behalf of the Case Manager and showed a Powerpoint presentation. Mr. French responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Sherry Crose, 943 South First Street, Louisville, KY 40203

Summary of testimony of those in favor:

00:34:25 Sherry Crose, the applicant's representative, spoke in support of the project and said she was available for any questions (see recording for detailed statement.)

The following spoke in opposition of the request:

No one spoke.

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00:38:00 Board Members' deliberation

00:38:39 On a motion by Member Jagoe, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, the applicant's justification, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the higher sign will be behind a fence that encloses the property and will not be located where the public can access it or run into it. It isn't too high to block lines of sight as well; and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the neighborhood is more commercial than residential and the sign will only have a footprint of 2.5 feet wide and 6 feet tall. It will be located near to a big beautiful Oak tree that the applicant wants to save and not change the character of the street; and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the sign will be located in an enclosed area of the business, behind a fence, where the public cannot access it to harm it or cause a hazard to those that walk the sidewalk outside the fence; and

WHEREAS, the Board further finds that the variance will not allow unreasonable circumvention of the requirements of the zoning regulations because the variance is for 2 feet more than the regulations require. The applicant does not want to change the character of the commercial area of the neighborhood just have the sign a little higher than the fence; and

WHEREAS, the Board further finds that the property the applicant wants to put the sign on is within a fenced-in location of grass and a parking lot. The fence is a metal, see-through so the applicant wants to make sure that the sign can be seen from the road and for that, it needs to be 2 feet higher. It has a minimal footprint so little grass will be removed; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the applicant feels that there is limited visibility of the name of the organization and that the sign will allow for

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easier identification for the applicant's clients. The applicant wants to maintain a small sign footprint to not remove too much grass; and

WHEREAS, the Board further finds that the circumstances were not the result of actions of the applicant taken subsequent to the adoption of the regulation from which the relief is sought. The property was laid out by the previous owners. The applicant is restricted as to what they can alter on the property and they do not want to take down the Oak tree to accommodate the sign. It is the applicant's desire to keep the green space and have a locational sign as small as possible (**The Board finds that the testimony of the applicant's representative adequately justified this Standard of Review**, and

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

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the area immediately adjacent to the site is developed for institutional and multi-family uses. In addition, development on the four-parcel site is not historic in style or content; and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations since the uses adjacent to the sign location is already developed with multi-family and institutional uses and design of the proposed sign is not incompatible with these uses; 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 since development on the site is atypical for the area and requires signage to be placed in a way that is unusual for the TNZD; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would not deprive the applicant of reasonable use of the land but would create an unnecessary hardship on the applicant since the existing uses on adjoining properties will not be adversely affected by the proposal; 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

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or the same zone since development on the site is atypical for the area and requires signage to be placed in a way that is unusual for the TNZD; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0036 does hereby **APPROVE** the requested Variance to permit freestanding signage to exceed the maximum permitted overall height (LDC 2.7.E.7.b.) (the permitted height is four feet; the proposed height is 6 feet, so the deviation from the permitted height is 2 feet.)

The vote was as follows:

Yes: Members Buttorff, Jagoe, Goatley, Seale, and Chair Howard

Absent: Members Turner and Vice Chair Leanhart

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0037

***NOTE: Board Member Lester Turner, Jr. joined the meeting at approximately 1:48 p.m., at 00:44:19, immediately following Chris French's staff presentation.**

Request:	Variance to allow an addition to an existing structure to encroach into the side yard setback
Project Name:	Vine Street Variance
Location:	948 Vine Street
Owner(s):	Brohannon, LLC
Applicant:	Ryan Brown, Brohannon LLC
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Zach Schwager, Planner I

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

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

Agency testimony:

00:40:33 Chris French presented the case on behalf of the Case Manager and showed a Powerpoint presentation. Mr. French responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Ryan Brown, 948 Vine Street, Louisville, KY 40204
Ashley Quinlan,

Summary of testimony of those in favor:

00:45:08 Ryan Brown, the applicant's representative, presented the applicant's case (see recording for detailed presentation.)

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CASE NUMBER 20-VARIANCE-0037

00:47:49 Member Buttorff asked about a wide overhang on the roof. Mr. Brown said the overhangs on the side should be flush, with a gutter. Mr. Brown added that the homes are very close together, and there may be a necessity to have workers standing on neighbors' property.

00:49:13 Member Howard asked Mr. Brown if he would be willing to agree to a Condition of Approval stating that, before any property maintenance, he would communicate with the adjoining neighbor to make sure they had no problem with his maintenance personnel encroaching on their property. Mr. Brown said he has already spoken to the neighbors and reviewed the plans with them. They have discussed measures to Mr. Brown will take to make sure their property is not damaged.

The following spoke in opposition of the request:

No one spoke.

00:52:55 Board Members' deliberation

01:08:35 On a motion by Member Seale, seconded by Member Goatley, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare, because the proposed addition must be constructed to comply with all building codes, including fire codes; and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as, the structure will be similar in size and scale compared to surrounding structures; and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the addition must be constructed to comply with all building codes; and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed addition will be the same distance from the side property lines as the existing footprint; and

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WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to the land in the generally vicinity or the same zone as the lot is similar in size and shape as the surrounding properties; and

WHEREAS, the Board further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the proposed addition would be the same distance from the side property lines as the existing structure; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0037 does hereby **APPROVE** the requested Variance from Land Development Code section 5.1.10.F to allow a principle structure to encroach into the required side yard setbacks (There are two setbacks: on the northern side, the requirement is 2.5 feet; the request is for 1.51 feet; the Variance is for 0.99 feet. On the southern side, the requirement is 2.5 feet; the request is for 0.48 feet; the Variance is for 2.02 feet), **SUBJECT** to the following Conditions of Approval:

Condition of Approval:

1. The applicant should provide a letter, signed by the adjacent property owners on either side of the property, stating that they (the adjacent property owners) give rights for the applicant should he need to, for construction and maintenance purposes, encroach onto their property. The letter to be delivered to Planning and Design Services within 14 days from today's date (June 8, 2020). If the letter is not received within 14 days, the Variance approval shall be null and void.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0039

Request: Variance to allow vehicle maneuvering to encroach into the streamside buffer for Black Pond Creek
Project Name: A & S Road Services
Location: 10605 Freeport Drive
Owner/Applicant: A & S Road Services
Representative: Mindel Scott & Associates
Jurisdiction: Louisville Metro
Council District: 12 – Rick Blackwell
Case Manager: Jay Lockett, AICP, Planner I

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

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

Agency testimony:

01:17:53 Chris French presented the case on behalf of the Case Manager and showed a Powerpoint presentation. Mr. French responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Kathy Linares, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

Adrianna Martin (applicant's representative; available for questions.)

Summary of testimony of those in favor:

01:20:33 Kathy Linares, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

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CASE NUMBER 20-VARIANCE-0039

The following spoke in opposition of the request:

No one spoke.

01:28:42 Board Members' deliberation

01:29:31 On a motion by Member Jagoe, seconded by Member Goatley, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as additional landscaping will be installed to prevent runoff into the protected waterway; and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as other development in this area has similar encroachments into the streamside buffer; and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as new landscaping will be installed to screen the use and help reduce runoff into the protected waterway; and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the development is similar to other development in the area, and the applicant has taken steps to minimize the encroachment into the buffer; and

WHEREAS, the Board further finds that Riverport requires a greater front setback than is usually required in the Suburban Workplace form district, which limits the buildable area of the lot; and

WHEREAS, the Board further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as the site is constrained by exceptional front setback requirements; 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

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CASE NUMBER 20-VARIANCE-0039

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0039 does hereby **APPROVE** the requested Variance from table 4.8.1 to allow vehicular parking and maneuvering to encroach up to 25 feet into the 100-foot streamside buffer for Black Pond Creek.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0042

Request: Variances to allow a proposed structure to encroach into the required side and private yards
Project Name: Lynn Street Variances
Location: 670 Lynn Street
Owner/Applicant: John and Donna Francke
Jurisdiction: Louisville Metro
Council District: 15 – Kevin Triplett
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:

01:31:27 Chris French presented the case on behalf of the Case Manager and showed a Powerpoint presentation. Mr. French responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the appeal:

John Francke, 3317 Arterburn Avenue , Louisville, KY 40206

Summary of testimony of those in favor:

01:35:10 In response to a question from John Francke (the applicant), Jon Crumbie discussed the setback requirement for this 25 foot wide lot. Mr. French said he would adjust the table (see recording for detailed presentation).

01:42:46 Mr. Francke noted that he had submitted a letter, signed by a Jason McPherson [adjoining property owner?] which has been submitted to Jon Crumbie. He said the letter states that he has permission to access his property to maintain his (Mr. Francke's) house (replace siding, roofing, etc.)

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CASE NUMBER 20-VARIANCE-0042

01:44:25 Board Members' deliberation

01:45:17 On a motion by Member Buttorff, seconded by Member Seale, the following resolution, based upon the Standard of Review and Staff Analysis, the applicant's submitted information, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds the requested variance will not adversely affect the public health, safety or welfare, because the proposed addition must be constructed to comply with all building codes, including fire codes; and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposed structure to be constructed in the rear and will be in character with the design of other additions in the neighborhood; and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the addition must be constructed to comply with all building codes; and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed addition is slightly further away from the property line than the existing structure and private yard area is maintained; and

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

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant as they could construct an addition would not require such significant departure from the dimensional requirement; 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

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0042

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0042 does hereby **APPROVE** the requested Variances from Land Development Code table 5.2.2 to allow a principle structure to encroach into the required side yard setback and 5.4.1.D.3 to reduce the required private yard area. (The east side requirement is 2.5 feet; the request is for 10 inches; the Variance is for 1 foot 8 inches. The Private yard requirement is 500 square feet; the request is for 200 square feet; the Variance is for 300 square feet.)

The vote was as follows:

Yes: Members Buttorff, Jagoe, Goatley, Seale, Turner, and Chair Howard

Absent: Member Vice Chair Leanhart

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June 8, 2020

PUBLIC HEARING

CASE NUMBER 20-SIGNAUTH-0001

Request:	Sign Authorization for Exceptional Sign
Project Name:	Freestanding Sign
Location:	826 East Main Street
Owner/Applicant:	NuLu Commons LLC
Representative:	Jeff Rawlins, Architectural Artisans
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Beth Jones, AICP, Planner II

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

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

Agency testimony:

01:47:55 Chris French presented the case on behalf of the Case Manager and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jeff Rawlins, 213 South Shelby Street, Louisville, KY 40202

Summary of testimony of those in favor:

01:52:01 Jeff Rawlins, the applicant's representative, presented the applicant's case (see recording for detailed presentation.)

01:54:24 In response to a question from Member Goatley, Mr. Rawlins explained the proposed lighting for the sign (indirect). The sign is about one foot deep.

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01:55:29 In response to a question from Member Buttorff, Mr. Rawlins said he is the architect for the project.

The following spoke in opposition of the request:

No one spoke.

01:58:22 Board Members' deliberation

01:58:54 On a motion by Member Goatley, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as it is appropriate for the site and does not include lighting that might adversely affect adjoining property owners; and

WHEREAS, the Board further finds that the waiver will not violate specific guidelines of Plan 2040 (Community Form Goal 1, Policy 14) as the proposal is in compliance with the underlying form district and the character of the area and makes a positive contribution to the visual quality of its surroundings. It is also of a size and height adequate for effective communication and proportionate with the scale of the development and parking area it identifies. The proposal also meets LDC design guidelines for a Sign Authorization in that it is visually consistent with the architecture, materials, colors and overall design of its surroundings. The Urban Design Administrator has reviewed and approved the proposal for conformance with design standards for the NuLu overlay district; and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant in that the request is compatible with surrounding development and has appropriate roadway and pedestrian visibility; and

WHEREAS, the Board further finds that the applicant has incorporated design measures which compensate for non-compliance resulting in a net beneficial effect. The design of the sign's supporting structure, created in coordination with the Urban Design Administrator, is appropriate for the site and will contribute a

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distinctive design element to the vicinity with minimal negative impacts; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-SIGNAUTH-0001 does hereby **APPROVE** the requested Sign Authorization to permit an Exceptional Sign (LDC 8.4, Appendix 8B).

The vote was as follows:

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

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PUBLIC HEARING CASE NO. 20-CUP-0030

Request: Conditional Use Permit to allow accessory apartment
in the R-5 zoning district
Project Name: Casselberry Accessory Apartment
Location: 1714 Casselberry Road
Owner/Applicant: Ashley Quinlan
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
Case Manager: Nia Holt, Planner I

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

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

Agency testimony:

02:00:52 Before beginning his presentation, Chris French noted that Zach Schwager is standing in for Nia Holt as Case Manager for this case. Mr. French then presented the case on behalf of the Case Manager and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Ashley Quinlan, 1714 Casselberry Road, Louisville, KY 40205

Summary of testimony of those in favor:

02:03:42 Ashley Quinlan, the applicant, presented her case (see recording for detailed presentation.)

02:06:12 In response to a question from Member Buttorff, Ms. Quinlan said the carriage house has been used as living space over the last five years (family members and a family friend.) It was also used as an apartment before Ms. Quinlan acquired the property.

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02:06:46 In response to a question from Member Howard, Ms. Quinlan discussed the pending zoning enforcement action. Joe Haberman gave more details about the pending code enforcement case. Ms. Quinlan added that the neighbor who called Code Enforcement was calling to ask about their own property, not to complain about hers. That neighbor has apologized for the confusion, and stated that they have no problem with anyone living there.

02:09:19 In response to a question from Member Goatley, Ms. Quinlan said that carriage houses in the neighborhood are commonly used as secondary dwelling units.

The following spoke in opposition to the request:

Paul Fleitz, representing his mother who lives at 1720 Casselberry Road, Louisville, KY 40205

Summary of testimony of those in opposition:

02:11:17 Paul Fleitz, speaking on behalf of his mother, said he and his mother are opposed to this request. He said the original permit from 2005 states specifically that the second floor is not an accessory apartment / dwelling unit. He said it does not seem that the current structure meets setback and height restrictions. He said he is concerned about setting a precedent – that he is unaware of other carriage houses in the neighborhood being used as secondary apartments. He said he is also concerned that, if this is approved, this could lead to short-term rentals / AirBnB's.

02:14:15 In response to a question from Member Howard, Mr. Fleitz said there is only one accessory apartment.

02:14:49 In response to a question from Member Buttorff, Mr. Fleitz said he was told in 2005 that the second floor was going to be an office for the resident of the home. He said his family was unaware until today that the structure had been used as a rental in the past.

Rebuttal:

02:18:19 Ms. Quinlan addressed Mr. Fleitz's concerns about a potential AirBnB situation and assured him this will not happen as long as she owns this property. She contrasted the height of her primary home versus the height of the much smaller accessory structure. She said people have been living in this structure well before she acquired the property and asked why no complaints have been made before now.

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02:22:09 In response to a question from member Buttorff, MS. Quinlan said the accessory structure was advertised as “finished square feet” and the bedroom in the carriage house were included in the “bedroom” count.

02:23:32 Board Members’ deliberation

02:28:25 Member Howard briefly brought the Board back into open session to allow Ms. Quinlan made an impact statement (see recording for detailed statement.)

02:36:56 On a motion by Member Seale, seconded by Member Jagoe, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal does not conflict with Comprehensive Plan policies; and

WHEREAS, the Board further finds that the proposal is compatible with surrounding development. No exterior alterations to the existing structure 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:

Accessory Apartments may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5 and U-N districts up on the granting of a conditional use permit and compliance with the listed requirements.

A. The principal and accessory dwellings shall be owned by the same person(s). Occupancy of the accessory unit shall occur only while the property owner(s) resides in the principal dwelling on the premises. **The property owner resides in the principle dwelling.**

B. The accessory apartment shall be no greater than 650 sq ft or 30% of the floor area of the principal residence, whichever is greater. **PVA lists the floor area of the principal structure as 4,125 square feet. The accessory apartment is 841 square feet which is 20% of the principal structure.**

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C. If the accessory apartment is located in a freestanding structure, it shall not exceed the height of the principal residence. In the TNFD, permissible height shall be as allowed by the form district regulation, unless the Board approves a differing height. In all other form districts, if the freestanding structure is located within 25 feet of a property line, the height of the structure shall not exceed the average height of accessory structures on abutting parcels or 15 feet, whichever is greater, unless the Board finds that a different height limit is appropriate. **The standard is met.**

D. Sites having accessory apartments shall provide off-street parking for the principal and accessory apartment as follows:

1. Neighborhood Form District - at least three off-street spaces provided on the lot, no more than two spaces outdoors. **There is a two-car garage under the proposed accessory apartment and another two-car garage under the principle structure. The property is also credited for three off-street parking spaces;** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-CUP-0030 does hereby **APPROVE** the requested Conditional Use Permit to allow an accessory apartment in the R-5 Zoning and Neighborhood Form District, SUBJECT to the following Conditions of Approval:

Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for an accessory apartment without further review and approval by the Board.
3. The applicant is required to contact Louisville Metro Emergency Services to have a unique address assigned to the accessory apartment.

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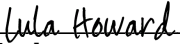
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The vote was as follows:

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

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The meeting adjourned at approximately 3:41 p.m.

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Secretary A1346433...