

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

**June 1, 2020**

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

**Members Present:**

Lula Howard, Chair  
Richard Buttorff, Secretary  
LiAndrea Goatley  
Michael Seale

**Members Absent:**

Lester Turner, Jr.  
Lindsey Jagoe  
Kimberly Leanhart, Vice Chair

**Staff Members Present:**

Brian Davis, Planning & Design Manager  
Joe Haberman, Planning & Design Manager  
Chris French, Planning & Design Supervisor  
Zach Schwager, Planner I  
Joel Dock, Planner II  
Jon Crumbie, Planning & Design Coordinator  
Laura Ferguson, Legal Counsel  
Travis Fiechter, Legal Counsel

**Minutes prepared by:**

Sue Reid, Management Assistant

On the recommendation of the Louisville Metro Department of Public Health & Wellness regarding congregate events and social distancing, and as permitted by Commonwealth of Kentucky Senate Bill 150, the regularly scheduled June 1, 2020 Board of Zoning Adjustment meeting was held online.

The following cases were heard:

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**June 1, 2020**

**May 18, 2020 BOARD OF ZONING ADJUSTMENT MEETING MINUTES**

**00:10:02** 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 May 18, 2020 Board of Zoning Adjustment online meeting.

**The vote was as follows:**

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

**Absent: Members Turner, Jagoe, and Vice Chair Leanhart**

# BOARD OF ZONING ADJUSTMENT MINUTES

June 1, 2020

## PUBLIC HEARING

### CASE NUMBER 20-VARIANCE-0018

Request: Variance to allow a structure to encroach into the front yard setback on an infill lot  
Project Name: Hofelich Variance  
Location: 9806 Hofelich Lane  
Owner(s): Mary Knight  
Applicant: Alan Passmore  
Jurisdiction: Louisville Metro  
Council District: 20 – Stuart Benson  
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 5<sup>th</sup> 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:

**00:13:14** 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:

Alan Passmore, 9806 Hofelich Lane, Louisville, KY 40229

### Summary of testimony of those in favor:

**00:17:29** Alan Passmore 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.

# BOARD OF ZONING ADJUSTMENT MINUTES

June 1, 2020

## PUBLIC HEARING

### CASE NUMBER 20-VARIANCE-0018

**00:21:23** Board Members' deliberation

**00:21:54** On a motion by Member Goatley, seconded by Member Seale, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity, as the proposed addition will follow a similar footprint to current deck on the West side of the property, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the addition will be constructed to comply with building codes and out of the public right-of-way, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations, as the setback for the proposed structure will not be significantly different than the other structures on the block; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0018 does hereby **APPROVE** Variance from Land Development Code Section 5.1.12.B.2.e to allow a structure to encroach into the front yard setback on an infill lot (**Requirement 25 ft., Request 22 ft., Variance 3 ft.**), **SUBJECT** to the following Condition of Approval:

Condition of Approval:

1. The Minor Plat shall be approved and recorded with Planning & Design Services prior to construction.

**The vote was as follows:**

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

**Absent: Members Turner, Jagoe, and Vice Chair Leanhart**

## BOARD OF ZONING ADJUSTMENT MINUTES

June 1, 2020

### PUBLIC HEARING

#### CASE NUMBER 20-VARIANCE-0016

Request: Variance to allow a principle structure to encroach into the side yard setback  
Project Name: S. 8th Variance  
Location: 1468 S. 8th Street  
Owner(s): SFW Properties, LLC  
Applicant: Wesley Vaughn  
Jurisdiction: Louisville Metro  
Council District: 6 – David James  
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 5<sup>th</sup> 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:**

**00:24:25** 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:**

Wesley Vaughn, 1052 E. St. Catherine St., Louisville, KY 40202

#### **Summary of testimony of those in favor:**

**00:33:52** Wesley Vaughn 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.

# BOARD OF ZONING ADJUSTMENT MINUTES

June 1, 2020

## PUBLIC HEARING

### CASE NUMBER 20-VARIANCE-0016

**00:44:34**      **Board Members' deliberation**

**00:45:49**      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; however, staff is concerned that the variance could adversely affect the adjacent property owner because construction and maintenance of the structure may require encroachment onto the neighboring property. **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 alter the essential character of the general vicinity as the proposed structure will align with the existing street wall and keep in character with other structures in the general vicinity, 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 structure will help to keep the existing street wall; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0016 does hereby **APPROVE** Variance from Land Development Code Table 5.2.2 to allow a principle structure to encroach into the required side yard setback (**Requirement 10 ft., Request 0 ft., Variance 10 ft.**).

**The vote was as follows:**

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

**Absent: Members Turner, Jagoe, and Vice Chair Leanhart**

## BOARD OF ZONING ADJUSTMENT MINUTES

June 1, 2020

### PUBLIC HEARING

#### CASE NUMBER 20-VARIANCE-0034

Request: Variance to allow a structure to encroach into the infill front yard setback  
Project Name: Naomi Drive Variance  
Location: 4103 Naomi Drive  
Owner(s): Ryan Heite  
Applicant: Mick Logsdon – Logsdon Surveying  
Jurisdiction: Louisville Metro  
Council District: 2 – Barbara Shanklin  
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 5<sup>th</sup> 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:

**00:48:43** 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).

**00:53:25** Zach Schwager responded to questions from the Board Members (see recording for detailed presentation).

**00:54:47** Chris French and Zach Schwager responded to questions from the Board Members (see recording for detailed presentation).

#### **The following spoke in favor of the request:**

Mick Logsdon, 6808 Woodrow Way, Louisville, KY 40228  
Ryan Heite, 4103 Naomi Drive, Louisville, KY 40219

## **BOARD OF ZONING ADJUSTMENT MINUTES**

**June 1, 2020**

### **PUBLIC HEARING**

#### **CASE NUMBER 20-VARIANCE-0034**

##### **Summary of testimony of those in favor:**

**00:59:52** Mick Logsdon spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

**01:04:05** Ryan Heite spoke in favor of the request (see recording for detailed presentation).

##### **The following spoke neither for nor against the request:**

Latonya Horde, 4105 Naomi Drive, Louisville, KY 40219

##### **Summary of testimony of those neither for nor against:**

**01:08:00** Latonya Horde spoke neither for nor against the request. Ms. Horde wanted additional clarification as to what was going on with the variance, and stated her questions were answered by the applicant's testimony (see recording for detailed presentation).

**01:10:32** Joe Haberman and Zach Schwager responded to a question from Member Buttorff regarding whether plans are required for variances (see recording for detailed presentation).

##### **The following spoke in opposition of the request:**

No one spoke.

##### **01:18:48 Board Members' deliberation**

**01:20:52** 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 as the structure must be constructed to comply with all building codes, including fire codes, and



## BOARD OF ZONING ADJUSTMENT MINUTES

June 1, 2020

### PUBLIC HEARING

#### CASE NUMBER 20-VARIANCE-0034

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the front porch exists and there is no proposed change to the building footprint, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed addition and detached garage must be constructed to comply with all building codes, including fire codes, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the building footprint will not be changed; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0034 does hereby **APPROVE** Variance from Land Development Code Section 5.1.12.B.2.a to allow a principle structure addition to encroach into the required infill front yard setback (**Requirement 30 ft. to 31 ft., Request 23 ft., Variance 7 ft.**), **SUBJECT** to the following Condition of Approval:

Condition of Approval:

1. The minor plat (20-MPLAT-0021) shall be approved by Planning & Design Services and recorded with the Jefferson County Clerk's office.

**The vote was as follows:**

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

**Absent: Members Turner, Jagoe, and Vice Chair Leanhart**

## BOARD OF ZONING ADJUSTMENT MINUTES

June 1, 2020

### PUBLIC HEARING

#### CASE NUMBER 19-VARIANCE-0076

Request: Variance to allow encroachment of the proposed pavement into the middle and outer portions of the 100 foot stream buffer  
Project Name: FKC Dialysis Center  
Location: 4730 Champions Trace Lane  
Owner/Applicant: Mahesh Kumar Jindal, Two Beans Properties, LLC  
Representative: Ann Richard, Land Development & Design  
Jurisdiction: Louisville Metro  
Council District: 10 – Stuart Benson  
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 5<sup>th</sup> 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:**

**01:23:58** 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:**

Kyle Galloway, 9625 Ormsby Station, Louisville, KY 40223

#### **Summary of testimony of those in favor:**

**01:26:17** Kyle Galloway spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

#### **The following spoke in opposition of the request:**

No one spoke.

## BOARD OF ZONING ADJUSTMENT MINUTES

June 1, 2020

### PUBLIC HEARING

#### CASE NUMBER 19-VARIANCE-0076

**01:31:00**      **Board Members' deliberation**

**01:31:56**      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 since the access road to the neighboring property (which will also serve the subject site) already encroaches into the wetland buffer, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the access road already encroaches into the wetland buffer closer than the proposed development on the subject site, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the existing access road already encroaches into the wetland buffer more than the proposed pavement on the subject site would. The proposed pavement does not appear to pose a hazard or nuisance, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since there is already an existing encroachment into the wetland buffer, so the proposed encroachment is relatively minimal in comparison; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 19-VARIANCE-0076 does hereby **APPROVE** Variance from Land Development Code Section 4.8 to allow encroachment of the proposed pavement into the middle and outer portions of the 100 foot stream buffer.

**The vote was as follows:**

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

**Absent: Members Turner, Jagoe, and Vice Chair Leanhart**

## BOARD OF ZONING ADJUSTMENT MINUTES

June 1, 2020

### PUBLIC HEARING

#### CASE NUMBER 20-VARIANCE-0028

Request: Variance to decrease the side and rear yard setback for proposed subdivision of existing structure  
Project Name: Mary Street Townhomes  
Location: 1073 Mary Street  
Owner(s): SIMIC  
Applicant: Alma Simic  
Jurisdiction: Louisville Metro  
Council District: 4 – Barbara Sexton Smith  
Case Manager: Joel P. Dock, Planner II

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

**01:33:43** 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:**

Alma Simic, 9915 Constantine Circle, Prospect, KY 40059

#### **Summary of testimony of those in favor:**

**01:38:23** Alma Simic stated she would defer her presentation to Mr. Dock, but she is available for questions (see recording for detailed presentation).

**01:39:47** Joel Dock presented further information on the case and responded to questions from the Board Members (see recording for detailed presentation).

## BOARD OF ZONING ADJUSTMENT MINUTES

June 1, 2020

### PUBLIC HEARING

#### CASE NUMBER 20-VARIANCE-0028

**01:43:38** Alma Simic spoke in favor of the request (see recording for detailed presentation).

#### **The following spoke in opposition of the request:**

No one spoke.

**01:48:24** Joel Dock responded to a question from Member Buttorff (see recording for detailed presentation).

#### **01:49:15 Board Members' deliberation**

**01:50:44** 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 as construction been performed in accordance with requirements for attached walls for single- family residential construction, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the structure is present and lot lines are not visible. The variance request has no impact on the character of the area, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as construction has been performed in accordance with requirements for attached walls for single- family residential construction, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed lots line resulting in the need for the variance request does alter the character of the area or result in adverse impacts on public health, safety or welfare; now, therefore be it

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**June 1, 2020**

**PUBLIC HEARING**

**CASE NUMBER 20-VARIANCE-0028**

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0028 does hereby **APPROVE** Variance from Land Development Code Section 5.3.1.C.4 to omit the 5' rear yard setback on Lot 1 and the 5' side yard setbacks on Lot 2-5.

**The vote was as follows:**

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

**Absent: Members Turner, Jagoe, and Vice Chair Leanhart**

## BOARD OF ZONING ADJUSTMENT MINUTES

June 1, 2020

### PUBLIC HEARING

#### CASE NUMBER 20-CUP-0048

Request:	Conditional use permit for a private institutional use
Project Name:	St. Patrick Catholic Church
Location:	1000 N. Beckley Station Road
Owner:	Roman Catholic Bishop of Louisville
Applicant:	Patrick Blackburn – VBN Architects
Jurisdiction:	Louisville Metro
Council District:	19 – Anthony Piagentini
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 5<sup>th</sup> 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:**

**01:53:13** 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:**

Patrick Blackburn, 640 S. 4<sup>th</sup> Street, Louisville, KY 40202

#### **Summary of testimony of those in favor:**

**01:57:32** Patrick Blackburn spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

**02:04:18** Zach Schwager and Chris French responded to questions from the Board Members (see recording for detailed presentation).

## BOARD OF ZONING ADJUSTMENT MINUTES

June 1, 2020

### PUBLIC HEARING

#### CASE NUMBER 20-CUP-0048

The following spoke in opposition of the request:

No one spoke.

#### 02:09:04 Board Members' deliberation

**02:15:48** 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 proposal meets all applicable policies of the Comprehensive Plan, and

**WHEREAS**, the Board further finds that when appropriately managed, the proposed use is compatible with surrounding development and land uses, and

**WHEREAS**, the Board further finds that the subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed and approved the proposal, and

**WHEREAS**, the Board further finds that:

Private institutional uses, except for such uses specifically regulated elsewhere in this LDC, may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N zoning districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

- A. Except in the R-R zoning district, all structures, except fencing, and all off-street parking shall be at least 30 feet from any property line adjacent to an existing residential use or residential zoning district. In the R-R zoning district all structures, except fencing, shall be at least 150 feet from any property line and all off-street parking shall be at least 30 feet from any property line. **The applicant is requesting relief from this requirement to allow the existing parking to be within 30 ft. of the property line. Staff finds this request is adequately justified.**
- B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated. **Item B. does not apply.**



## BOARD OF ZONING ADJUSTMENT MINUTES

June 1, 2020

### PUBLIC HEARING

#### CASE NUMBER 20-CUP-0048

- C. Off-street parking not located within a driveway shall be located to the side or rear of the building(s). The number of required off-street parking spaces shall be determined by the Planning Director in consultation with the Director of Public Works based on the standards for the closest comparable use and on the particular parking demand and trip generation characteristics of the proposed use. **Staff does not believe that these requirements are applicable because the parking already exists.**
- D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99). **The applicant has been informed of this requirement.**
- E. The Board of Zoning Adjustment may set hours of operation for the institutional use in order to minimize potential negative impacts on surrounding residential properties. **The Board has considered the hours, and recommends that no limitations be set; the Board has considered the concerns expressed by those opposed;** now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 20-CUP-0048 does hereby **APPROVE** Conditional Use Permit to allow a private institutional use in an R-4 zoning 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 a private institution until further review and approval by the Board.

**The vote was as follows:**

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

**Absent: Members Turner, Jagoe, and Vice Chair Leanhart**

## BOARD OF ZONING ADJUSTMENT MINUTES

June 1, 2020

### PUBLIC HEARING

#### CASE NUMBER 20-CUP-0056

Request:	Conditional use permit to allow outdoor alcohol sales and consumption
Project Name:	Don Juan Foods, Inc.
Location:	5637 Outer Loop
Owner:	Knobview, LLC
Applicant:	Juan Segoviano – Don Juan Foods, Inc.
Jurisdiction:	Louisville Metro
Council District:	24 – Madonna Flood
Case Manager:	Zach Schwager, Planner I

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

**02:18:50** 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:**

Juan Segoviano, 5637 Outer Loop, Louisville, KY 40219

#### **Summary of testimony of those in favor:**

**02:21:08** Juan Segoviano spoke in favor of the request (see recording for detailed presentation).

#### **The following spoke in opposition of the request:**

No one spoke.

# BOARD OF ZONING ADJUSTMENT MINUTES

June 1, 2020

## PUBLIC HEARING

### CASE NUMBER 20-CUP-0056

#### 02:23:19 Board Members' deliberation

**02:23:47** On a motion by Member Buttorff, 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 proposal meets all applicable policies of the Comprehensive Plan, and

**WHEREAS**, the Board further finds that when appropriately managed, the proposed use is compatible with surrounding development and land uses, and

**WHEREAS**, the Board further finds that the subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed and approved the proposal, 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 C1 zoning district upon the granting of conditional use permit and compliance with the listed requirements

- A. All outdoor areas for the sale and consumption of alcohol must have designated boundaries. **This requirement is met.**
- 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. **This requirement does not apply.**
- 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. **This requirement does not apply.**
- 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

## BOARD OF ZONING ADJUSTMENT MINUTES

June 1, 2020

### PUBLIC HEARING

#### CASE NUMBER 20-CUP-0056

continuous screen shall be in conformance with the Chapter 10, Part 4 (Implementation Standards). **This requirement does not apply.**

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. **This requirement is met.**

F. The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 1 A.M. **This requirement must be met.**

G. The entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99). **This requirement must be met.**

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. **The Board must determine whether additional or more restrictive requirements should be added by conditional of approval;** now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 20-CUP-0056 does hereby **APPROVE** Conditional Use Permit to allow outdoor alcohol sales and consumption, **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 outdoor alcohol sales and consumption until further review and approval by the Board.

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**June 1, 2020**

**PUBLIC HEARING**

**CASE NUMBER 20-CUP-0056**

**The vote was as follows:**

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

**Absent: Members Turner, Jagoe, and Vice Chair Leanhart**

## BOARD OF ZONING ADJUSTMENT MINUTES

June 1, 2020

### PUBLIC HEARING

#### CASE NUMBER 20-APPEAL-0001

Request:	Appeal of an Administrative Decision
Project Name:	Dixie Highway Appeal
Location:	7318 Dixie Highway
Appellant:	Clear Vision Counseling, LLC
Representative:	Clifford H. Ashburner
Jurisdiction:	Louisville Metro
Council District:	12 – Rick Blackwell
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 5<sup>th</sup> 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:

**02:26:50** 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:

Cliff Ashburner, 101 S. 5<sup>th</sup> Street, Louisville, KY 40202  
Dan McDonald, 5500 Count Fleet Drive, Louisville, KY 40272

#### Summary of testimony of those in favor:

**02:41:45** Cliff Ashburner spoke in favor of the appeal (see recording for detailed presentation).

**02:55:47** Dan McDonald spoke in favor of the appeal (see recording for detailed presentation).

## **BOARD OF ZONING ADJUSTMENT MINUTES**

**June 1, 2020**

### **PUBLIC HEARING**

#### **CASE NUMBER 20-APPEAL-0001**

**02:58:27** Mr. McDonald and Mr. Ashburner responded to questions from the Board Members (see recording for detailed presentation).

#### **REBUTTAL:**

**03:03:27** Chris French spoke in rebuttal (see recording for detailed presentation).

**03:08:07** Cliff Ashburner provided additional comments (see recording for detailed presentation).

**03:10:39** Joe Haberman provided information regarding the process of change in nonconforming use (see recording for detailed presentation).

**03:12:37** Travis Fiechter, Legal Counsel, discussed possible actions of the Board (see recording for detailed presentation).

**03:15:20** Chris French reminded the Board what the appeal is for and displayed the required actions of the Board (see recording for detailed presentation).

**03:16:35** Travis Fiechter and Chris French discussed the core questions of the case (see recording for detailed presentation).

#### **03:20:45 Board Members' deliberation**

**03:26:39** On a motion by Member Seale, seconded by Member Buttorff, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 20-APPEAL-0001 finds that the commercial use (professional office) existed on the property in 1963.

**The vote was as follows:**

**Yes: Members Buttorff, Goatley, and Seale**

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**June 1, 2020**

**PUBLIC HEARING**

**CASE NUMBER 20-APPEAL-0001**

**No: Chair Howard**

**Absent: Members Turner, Jagoe, and Vice Chair Leanhart**

**03:30:41** On a motion by Member Seale, seconded by Member Goatley, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 20-APPEAL-0001 finds that the commercial use (professional office) has continued to the present day.

**The vote was as follows:**

**Yes: Members Buttorff, Goatley, and Seale**

**No: Chair Howard**

**Absent: Members Turner, Jagoe, and Vice Chair Leanhart**

**03:33:58** A motion was made by Member Seale to amend his previous two motions to include the appellant's testimony as justification. The motion was seconded by Member Goatley.

**The vote was as follows:**

**Yes: Members Buttorff, Goatley, and Seale**

**No: Chair Howard**

**Absent: Members Turner, Jagoe, and Vice Chair Leanhart**



**BOARD OF ZONING ADJUSTMENT MINUTES**  
**June 1, 2020**

03:37:13 Prior to adjournment, Chair Howard reminded the Board Members of the Special Meeting on 6/8/20. Chris French asked the Board Members to consider another Special Meeting on 6/29/20.

The meeting adjourned at approximately 4:45 p.m.

DocuSigned by:

*Lula Howard*

**Chair**

DocuSigned by: EAC7453...

DocuSigned by:

*Rick Buttorff*

**Secretary**

DocuSigned by: WA1346433...