

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

October 19, 2020

A meeting of the Louisville Metro Board of Zoning Adjustment was held on October 19, 2020 at 1:00 p.m. online via Cisco Webex Video Teleconferencing.

Members Present:

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

Staff Members Present:

Joe Reverman, Planning & Design Assistant Director
Joe Haberman, Planning & Design Manager
Brian Davis, Planning & Design Manager
Chris French, Planning & Design Supervisor
Zach Schwager, Planner I
Lacey Gabbard, Planner I
Jon Crumbie, Planning & Design Coordinator
Nia Holt, Planner I
Laura Ferguson, Legal Counsel
Sue Reid, Management Assistant

On the recommendation of the Louisville Metro Department of Public Health & Wellness regarding congregate events and social distancing, and as permitted by Commonwealth of Kentucky Senate Bill 150, the October 19, 2020 Board of Zoning Adjustment meeting was held online.

The following cases were heard:

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OCTOBER 5, 2020 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:05:56 On a motion by Member Buttorff, seconded by Vice Chair Leanhart, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the October 5, 2020 Board of Zoning Adjustment online meeting.

The vote was as follows:

Yes: Members Buttorff, Seale, Bond, and Vice Chair Leanhart, Chair Howard
Abstain: Member Jagoe

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0076

Request:	Variance to allow an accessory structure to encroach into the rear yard setback
Project Name:	Grandview Avenue Variance
Location:	3400 Grandview Avenue
Owner/Applicant:	Gregory T. Schanding
Jurisdiction:	City of St. Matthews
Council District:	9 – Bill Hollander
Case Manager:	Zach Schwager, Planner I

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

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

Agency testimony:

00:07:22 Zach Schwager stated this case has been withdrawn at the request of the applicant (see staff report and recording for detailed presentation).

THIS CASE WAS WITHDRAWN. THEREFORE, NO ACTION WAS TAKEN.

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0079

Request:	Variance to allow a principle structure to encroach into the required side yard setback on an infill lot
Project Name:	Logan Variance
Location:	802 Logan Street
Owner(s):	Cynthia Lee Staudter
Applicant:	Cynthia Lee Staudter
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
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:

00:09:04 Nia Holt stated the applicant has requested this case be moved to the end of today's hearing. Chair Howard advised everyone present that this case would be heard at the end of the agenda (see staff report and recording for detailed presentation).

04:33:36 Nia Holt stated this case was continued from September 28, 2020. Ms. Holt reviewed the case and showed a Powerpoint presentation. Ms. Holt responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Cynthia Lee Staudter, 3419 Pinnacle Gardens Drive, Louisville, KY 40245

Summary of testimony of those in favor:

04:37:12 Cynthia Staudter spoke in favor of the request. Ms. Staudter stated she had sent a certified letter to the owner of the adjacent property along with the plan as well as a self-addressed return envelope. Ms. Staudter stated this has been over two weeks ago and she has received no response. Ms. Staudter stated she is at the

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CASE NUMBER 20-VARIANCE-0079

property an average of once a week and she has never seen anyone, except someone cutting the grass. Ms. Staudter responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

04:44:08 Board Members' deliberation

04:48:42 On a motion by Vice Chair Leanhart, 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 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 applicant has made sufficient efforts to contact the adjacent property owner, and recommends that the applicant reach out to any new owner of said adjacent property to seek permission for performing maintenance on her property,** 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 be of similar design to other structures in the area, and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed addition will be a 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-0079 does hereby **APPROVE** Variance from Land Development Code

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0079

Section 5.1.10.F to allow a principle structure to encroach into the required side yard setback (**South Side Yard Requirement 2.66 ft., Request 0.4 ft., Variance 2.26 ft.**).
The vote was as follows:

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

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CASE NUMBER 20-VARIANCE-0084

Request:	Variance to permit an attached sign to extend to a height greater than twenty-five (25) feet above ground
Project Name:	U of L Health
Location:	3920 Dutchmans Lane
Applicant:	FastSigns
Jurisdiction:	St. Matthews
Council District:	26 – Brent Ackerson
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:

00:11:05 Joe Haberman 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:

Sam Cilone, FastSigns, 6005A Fern Valley Rd., Louisville, KY 40228
Steve Amsler, 2806 Valhalla Court, Louisville, KY 40242

Summary of testimony of those in favor:

00:16:08 Sam Cilone spoke in favor of the request (see recording for detailed presentation).

00:18:26 Steve Amsler spoke in favor of the request (see recording for detailed presentation).

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CASE NUMBER 20-VARIANCE-0084

The following spoke in opposition of the request:

No one spoke.

00:20:47 Board Members' deliberation

00:21:37 On a motion by Member Seale, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as it is in character with other attached signage on adjoining properties and within the general vicinity, 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 proposed placement of the sign is dictated by the design of the building's façade; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0084 does hereby **APPROVE** Variance to permit an attached sign to extend to a height greater than twenty-five feet above ground (St. Matthews Development Code 14-04 D.2.c).

The vote was as follows:

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

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CASE NUMBER 20-VARIANCE-0089

Request:	Variance from Land Development Code section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of a lot
Project Name:	Southwestern Pkwy Variance
Location:	938 Southwestern Pkwy
Owner:	Angela Flanagan
Applicant:	Angela Flanagan
Jurisdiction:	Louisville Metro
Council District:	5 – Donna Purvis
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:

00:23:30 Nia Holt presented the case and showed a Powerpoint presentation. Ms. Holt responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Angela Flanagan, 938 Southwestern Pkwy., Louisville, KY 40211
R. Beeler, 942 Southwestern Pkwy., Louisville, KY 40211

Summary of testimony of those in favor:

00:26:44 Angela Flanagan spoke in favor of the request (see recording for detailed presentation).

00:28:35 Mr. Beeler spoke in favor of the request (see recording for detailed presentation).

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CASE NUMBER 20-VARIANCE-0089

The following spoke in opposition of the request:

No one spoke.

00:32:34 Board Members' deliberation

00:32:56 On a motion by Member Bond, seconded by Vice Chair Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the structure 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 detached garage will be of a similar design as the existing garages in the surrounding area, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed structure will 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 applicant is requesting the minimum reduction in private yard area needed to complete the proposed garage. Additionally, there is open space available along the South side yard; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0089 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of a lot (**Private Yard Area Requirement 1930 sf, Request 1500 sf, Variance 460 sf**).

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0093

Request:	Variance to omit the 100 foot Streambank Buffer associated with the Polo Fields Golf Course lake
Project Name:	Lakeview Villas
Location:	16900 Mallet Hill Drive
Owner:	Tiffany L. Nolot, Poe Family Realty Partnership, LTD
Applicant:	Don Karem, Karem Built Homes, Inc.
Representative:	Kevin Young, 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:

00:34:47 Lacey Gabbard presented the case and showed a Powerpoint presentation. Ms. Gabbard responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Kevin Young, Land Design & Development, 503 Washburn Ave., Louisville, KY 40222
Don Karem, 12100 Preakness Court, Louisville, KY 40299

Summary of testimony of those in favor:

00:41:46 Kevin Young spoke in favor of the request and showed a Powerpoint presentation. Mr. Young responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 20-VARIANCE-0093

00:51:14 Don Karem 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.

00:55:38 Board Members' deliberation

00:56:13 On a motion by Vice Chair Leanhart, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the applicant states that the construction of the proposed homes will be in compliance with MSD Best Management Practices for Erosion Prevention and Silt Control. Staff recommends that the Board of Zoning Adjustment discuss with the applicant possible mitigation measures for the variance request, such as additional plantings **(the Board added a Condition of Approval to address this recommendation)**, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the golf course lake will not be altered, and there are many existing residential structures in the vicinity of the subject site. Additionally, the currently approved plan for 9-80-99 does not show a streambank buffer 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 lake is existing, and the portions of the subject site where the buffer would normally be located will be used by individual home owners. The applicant states that the lake will be protected during construction with MSD Best Management Practices for Erosion and Silt Control, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the plan for 9-80-99 does not show a streambank buffer, so if the subject site had been constructed in accordance with that plan the streambank buffer would not have been provided; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0093 does hereby **APPROVE** Variance from Land Development Code

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CASE NUMBER 20-VARIANCE-0093

Section 4.8.1 to omit the 100 foot Streambank Buffer associated with the Polo Fields Golf Course lake, **SUBJECT** to the following Condition of Approval.

Condition of Approval:

1. The applicant shall provide at least one additional tree above and beyond what is required by Code for each lot at the rear adjacent to the lake.

The vote was as follows:

Yes: Members Seale, Bond, Jagoe, Vice Chair Leanhart, and Chair Howard
Abstain: Member Buttorff

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CASE NUMBER 20-VARIANCE-0097

Request:	Variance to allow a second story addition to an existing structure to encroach into the side yard setback
Project Name:	Hull Street Variance
Location:	1201 Hull Street
Owner:	Prospect Construction, LLC
Applicant:	Tom Sanders
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:

00:59:23 Zach Schwager presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Tom Sanders, 7513 Chestnut Hill Dr., Prospect, KY 40059

Summary of testimony of those in favor:

01:01:53 Tom Sanders 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 20-VARIANCE-0097

01:05:22 Board Members' deliberation

01:05:54 On a motion by Member Bond, 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 requested variance will not adversely affect the public health, safety or welfare, because the proposed structure must be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as there are other two-story structures on the block, and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed addition will be the same distance from the side property line as the existing structure; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0097 does hereby **APPROVE** Variance from Land Development Code Section 5.1.10.F to allow a second story addition to an existing structure to encroach into the required side yard setback (**Side Yard Requirement 2.5 ft., Request 0.14 ft., Variance 2.36 ft.**).

The vote was as follows:

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

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CASE NUMBER 20-VARIANCE-0101

Request:	Variance from Land Development Code section 4.4.3.A.1.a.i to allow a fence in the street side yard in the Traditional Neighborhood Form District to exceed 42 inches in height
Project Name:	S. 1st Street Variance
Location:	4617 S. 1st Street
Owner:	Yaimet Carcacia Lema
Applicant:	Yaimet Carcacia Lema
Jurisdiction:	Louisville Metro
Council District:	21 – Nicole George
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:

01:08:06 Nia Holt presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Yaimet Carcacia Lema, 4617 S. 1st Street, Louisville, KY 40214
Trina Keen, 114 E. Francis Ave., Louisville, KY 40214
Richard Woodard, 4633 S. 1st Street, Louisville, KY 40214
Annette Woodard, 4633 S. 1st Street, Louisville, KY 40214
Kathy Jones, 4619 S. 1st Street, Louisville, KY 40214

Summary of testimony of those in favor:

01:10:40 Yaimet Carcacia Lema spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 20-VARIANCE-0101

01:12:18 Nia Holt responded to questions from the Board Members (see recording for detailed presentation).

01:14:38 Trina Keen spoke in favor of the request (see recording for detailed presentation).

01:16:00 Richard Woodard spoke in favor of the request (see recording for detailed presentation).

01:17:00 Annette Woodard spoke in favor of the request (see recording for detailed presentation).

01:18:27 Kathy Jones spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

01:20:53 Board Members' deliberation

01:21:26 On a motion by Vice Chair Leanhart, 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 requested variance will not adversely affect the public health, safety or welfare as the fence is not within the sight triangle and does not interfere with vision clearance at either intersection, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as there are a few fences in either a front or street side yard setback with a similar height in the area, 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 obstruct sight lines or create a hazard for motorists or pedestrians at the intersections. Additionally, the applicant has obtained a

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CASE NUMBER 20-VARIANCE-0101

license agreement from Public Works for the part of the fence which is in 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 applicant is requesting a variance for only the connective parts of the fence which cross through the street side yard setback; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0101 does hereby **APPROVE** Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence in the Street Side Yard in the Traditional Neighborhood Form District to exceed 42 inches in height (**Street Side Yard Requirement 42 inches, Request 72 inches, Variance 30 inches**).

The vote was as follows:

Yes: Members Seale, Bond, Jagoe, Vice Chair Leanhart, and Chair Howard

No: Member Buttorff

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CASE NUMBER 20-VARIANCE-0106

Request:	Variance from Land Development Code section 4.4.3.A.1.a.i to allow a fence in the front yard in the Traditional Neighborhood Form District to exceed 42 inches in height
Project Name:	Northwestern Pkwy Variance
Location:	2405 Northwestern Parkway
Owner:	Mason Embry
Applicant:	Mason Embry
Jurisdiction:	Louisville Metro
Council District:	5 – Donna Purvis
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:

01:23:56 Nia Holt presented the case and showed a Powerpoint presentation. Ms. Holt responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Mason Embry, 2405 Northwestern Pkwy., Louisville, KY 40212

Summary of testimony of those in favor:

01:30:14 Mason Embry 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 20-VARIANCE-0106

01:37:35 Board Members' deliberation

01:37:52 On a motion by Member Seale, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the fence is not within the right of way, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as there are a few fences in either a front or street side yard setback with a similar height in the area, 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 obstruct sight lines or create a hazard for motorists or pedestrians, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the applicant's lot is unique to the area and the fence is similar to many of the existing fences in the community; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0106, does hereby **APPROVE** Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence in the Front Yard in the Traditional Neighborhood Form District to exceed 42 inches in height (**Front Yard Requirement 42 inches, Request 72 inches, Variance 30 inches**).

The vote was as follows:

Yes: Members Seale, Bond, Jagoe, Vice Chair Leanhart, and Chair Howard
No: Member Buttorff

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CASE NUMBER 20-CUP-0098

Request:	Conditional Use Permit to allow an indoor athletic facility
Project Name:	Advance Sports Training
Location:	1200 Hodel Road
Owner/Applicant:	Schnell Properties, LLC
Jurisdiction:	Watterson Park
Council District:	10 – Pat Mulvihill
Case Manager:	Jon E. Crumby, Planning & Design Coordinator

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

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

Agency testimony:

01:40:06 Jon Crumby presented the case and showed a Powerpoint presentation. Mr. Crumby responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Marv Blomquist, 10529 Timberwood Circle, Suite D, Louisville, KY 40223
Mike Schnell, 5507 S. Watterson Trail, Louisville, KY 40291

Summary of testimony of those in favor:

01:45:03 Marv Blomquist spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:51:15 Mike Schnell spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 20-CUP-0098

The following spoke in opposition of the request:

No one spoke.

01:54:24 Board Members' deliberation

01:55:04 On a motion by Member Buttorff, 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 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 the proposal, and

WHEREAS, the Board further finds that

Indoor and outdoor athletic facilities as a principle use are permitted in the R-R, R-E, R-1, R-2, R-3, R- 4, R-5, R-5A, R-6, R-7, R-8A, M-1, M-2, and M-3 districts in compliance with the following requirements:

- A. The athletic facilities are located in a suburban form district; **the proposal is located in the Suburban Workplace form district;** and
- B. Pedestrian and vehicular circulation patterns, including location of parking lots and driveways, must be designed to safely accommodate recreational users and avoid conflict with truck traffic, as determined by the Director of Works; **the site plan has been reviewed and approved by Public Works;** and
- C. The applicant shall submit a lighting plan documenting compliance with Section 4.1.3 (Lighting ordinance); **the proposal will be using the existing lighting on site and will be compliance with the lighting ordinance;** and

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- D. No structure, parking area or outdoor recreation facility shall be located within 30 feet of a property line, unless the closest comparable use and on the particular parking demand and trip generation characteristics of the property further restricted in accordance with paragraph F below. **There will be no new construction, so all conditions are existing. The existing parking area along the Stober Road property line is approximately 8' at its closest point from the property line. The existing parking area along the Poplar Level Road property line is approximately 21' at its closest point from the property line. The existing parking area along the Hodel Road property line is approximately 7' at its closest point from the property line and the existing structure will be approximately 9' from the Hodel Road property line. The existing structure along the Watterson Park Road property line is approximately 27' at its closest point from the property line.**
- E. Signs – Shall be in accordance with the on-premises sign standards of Chapter 8 of the LDC for non- residential uses. **Signs will be Land Development compliant.**
- F. Athletic facilities in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, R-5A, R-6, R-7 and R-8A districts shall meet the following compatibility requirements:
1. No outdoor athletic facility or parking area may be located closer than 100 feet to an adjacent property zoned for residential use.
 2. No indoor athletic facility may be located closer than 50 feet to an adjacent property zoned for residential use.
 3. The minimum tract size for an athletic facility shall be 10 contiguous acres. **Item F. does not apply.**
- G. Athletic facilities in the M-1, M-2 and M-3 districts subject to a conditional use permit may serve three purposes:
1. To allow a transitional use of industrially zoned land, while preserving the community's supply of industrially zoned property until such time as market demand justifies use of such property in a manner that will significantly meet the community's economic development needs; **the proposal will meet this purpose;** or
 2. To allow use of parcels for permanent open space or recreational purposes serving employees of an industrial development; or
 3. To accommodate greenways or similar open space use of environmentally constrained land, with or without trail systems or other recreational facilities.
- H. Thus, athletic facilities are permitted only when the applicant indicates which of the three purposes the proposed will meet, and can demonstrate the following to the satisfaction of the Board of Zoning Adjustment or the Board's designee:

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1. If Transitional Use: The proposed athletic facilities do not entail construction of permanent facilities that are inconsistent with industrial use of the site. **The proposal will meet this purpose.**
2. If Permanent Open Space/Recreation Use: The site is an integral component of a multi-lot business or industrial park, and the recreation facilities primarily benefit persons working at the industrial park.
3. If Greenway or Environmentally Constrained: The site is subject to environmental constraints regulated in Chapter 4 Parts 6, 7, or 8, and is precluded from development by conservation easement or restriction on the development plan; and

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-CUP-0098 does hereby **APPROVE** Conditional Use Permit to allow an indoor athletic facility, with **RELIEF** from Requirements C and D (based upon the applicant's justification), and **SUBJECT** to the following Conditions of Approval.

Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for an indoor athletic facility until further review and approval by the Board.

The vote was as follows:

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

01:57:15 Meeting was recessed.

02:04:14 Meeting was reconvened.

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CASE NUMBER 20-CUP-0108

Request:	Conditional Use Permit to allow a short term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Frankfort Avenue Short Term Rental
Location:	2600 Frankfort Avenue
Owner/Applicant:	William & Brooke Feather
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Zach Schwager, Planner I

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

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

Agency testimony:

02:04:24 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

William Feather, 3402 Flinthaven Rd., Louisville, KY 40241

Summary of testimony of those in favor:

02:07:33 William Feather 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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02:12:11 Board Members' deliberation

02:12:50 On a motion by Vice Chair Leanhart, 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 proposal is consistent with Comprehensive Plan policies, and

WHEREAS, the Board further finds that when appropriately managed, the proposed use is compatible with surrounding development and land uses. No exterior construction or alterations to the building or the site are required, and

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. The proposal does not appear to create substantial additional requirements for the site, and

WHEREAS, the Board further finds that:

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

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

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- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, there are zero properties with an approved conditional use permit for a non-host occupied short term rental within 600 ft. of the subject property (see Attachment 3).**
- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The dwelling unit is an accessory apartment.**
- F. Food and alcoholic beverages shall not be served by the host to any guest. **The applicant has been informed of this requirement.**
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts. **The applicant has been informed of this requirement.**
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **LDC standards credit the site with one on-street parking space and there is additional parking in the driveway. In addition, there appears to be available parking in the area.**
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances. **The applicant has been informed of this requirement.**

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-CUP-0108 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host (LDC 4.2.63), **SUBJECT** to the following Condition of Approval.

Condition of Approval:

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

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The vote was as follows:

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

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CASE NUMBER 20-APPEAL-0006

Request:	Appeal of an administrative decision concerning the use of the property as a duplex
Project Name:	Southcrest Drive Appeal
Location:	4634 Southcrest Drive
Owner/Applicant:	Aja Sherman
Jurisdiction:	Louisville Metro
Council District:	21 – Nicole George
Case Manager:	Jon E. Crumbie, Planning & Design Coordinator

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

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

Agency testimony:

02:17:12 Jon Crumbie presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in opposition of the appeal:

Gary Lair, 4632 Southcrest Drive, Louisville, KY 40215
David Neill, 4610 Southcrest Drive, Louisville, KY 40215
Rachel Roarx (Councilwoman Nicole George's office), 2306 Pikes Peak Blvd.,
Louisville, KY 40214
Kimberly Steinke, 621 W. Woodlawn Ave., Louisville, KY 40215
Elizabeth Roche, 4636 Southcrest Drive, Louisville, KY 40215
Shireen Deobhakta,
Jennifer Nilest, 4638 Southcrest Drive, Louisville, KY 40215

Summary of testimony of those in opposition:

02:24:16 Gary Lair spoke in opposition of the appeal (see recording for detailed presentation).

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02:32:33 David Neill spoke in opposition of the appeal (see recording for detailed presentation).

02:35:00 Rachel Roarx spoke in opposition of the appeal (see recording for detailed presentation).

02:37:53 Kimberly Steinke spoke in opposition of the appeal (see recording for detailed presentation).

02:40:43 Elizabeth Roche spoke in opposition of the appeal (see recording for detailed presentation).

The following spoke in favor of the appeal:

Aja Sherman, 3012 Bobolink Rd., Louisville, KY 40217

Bryanna Milby, 4634 Southcrest Drive, Unit B, Louisville, KY 40215

Bryan Beach, 4634 Southcrest Drive, Unit A, Louisville, KY 40215

Summary of testimony of those in favor:

02:43:58 Aja Sherman spoke in favor of the appeal and showed a Powerpoint presentation. Ms. Sherman responded to questions from the Board Members (see recording for detailed presentation).

03:10:25 Bryanna Milby spoke in favor of the appeal (see recording for detailed presentation).

03:17:01 Bryan Beach spoke in favor of the appeal (see recording for detailed presentation).

03:23:25 Ms. Sherman clarified a response to a prior question from Member Buttorff (see recording for detailed presentation).

03:24:50 Prior to rebuttal, Mr. Haberman asked the Chair to acknowledge testimony of a speaker in opposition of the appeal. Mr. Haberman stated he had missed this speaker previously. Chair Howard allowed testimony from this speaker (see recording for detailed presentation).

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Additional testimony in opposition of the appeal:

03:25:37 Shireen Deobhakta spoke in opposition of the appeal and responded to questions from the Board Members (see recording for detailed presentation).

03:29:06 Chair Howard responded to a question from Member Bond, and asked Member Bond to hold the question until deliberation (see recording for detailed presentation).

03:30:16 Mr. Haberman stated there was one additional speaker who had been overlooked. Chair Howard allowed testimony from this speaker (see recording for detailed presentation).

03:30:56 Jennifer Nilest spoke in opposition of the appeal (see recording for detailed presentation).

Appellant's Rebuttal:

03:35:08 Aja Sherman spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

Agency Rebuttal:

03:42:37 Jon Crumbie spoke in rebuttal. Mr. Crumbie stated he wanted to clarify that he did not issue to Notice of Violation, he is the Case Manager. Mr. Crumbie stated the officer cannot confirm nonconforming rights. Mr. Crumbie stated if nonconforming rights is what was wanted, there is a separate process for that. Mr. Crumbie stated they did not do an exhaustive review of the directories, but they did not show the property was in use as a duplex from 1971 to present. Mr. Crumbie responded to questions from the Board Members (see recording for detailed presentation).

03:45:07 Board Members' deliberation

04:12:43 A motion was made by Member Seale in Case Number 20-APPEAL-0006 to **REVERSE** the Administrative Official's decision and **APPROVE** the Appeal, based upon the Staff Analysis, and the evidence heard today. The motion **FAILED** for lack of a second.

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04:14:00 **Board Members' deliberation**

04:17:05 On a motion by Member Buttorff, seconded by Vice Chair Leanhart, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 20-APPEAL-0006 to the November 2, 2020 Board of Zoning Adjustment meeting to allow the appellant an opportunity to file an application for Nonconforming Rights; the Board has agreed to consider further Public Hearing if new information is presented. (**NOTE:** There was significant discussion among the Board Members before a vote was taken on this motion, please see recording for detailed presentation).

The vote was as follows:

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

NOTE: Item #3 on today's agenda was recalled at this time. Please see Page 4 of these minutes.

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04:51:23 Prior to adjournment, Mr. Haberman advised the Board Members that staff is in the process of holding meetings regarding Boarding House regulations. Mr. Haberman stated the text amendments would go before the Planning Commission for recommendation to Metro Council and other cities with zoning authority. Staff and Board Members discussed training opportunities (see recording for detailed presentation).

The meeting adjourned at approximately 6:00 p.m.

DocuSigned by:

Lula Howard

Chair

DocuSigned by:

Rick Buttorff

Secretary