

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

August 2, 2021

A meeting of the Louisville Metro Board of Zoning Adjustment was held on August 2, 2021 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Michael Seale, Vice Chair
Sharon Bond, Secretary
Richard Buttorff
Yani Vozos
Kimberly Leanhart

Members Absent:

Lula Howard, Chair
Lindsey Jagoe

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Reverman, Planning & Design Assistant Director
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Zach Schwager, Planner I
Jay Lockett, Planner I
Jon Crumbie, Planning & Design Coordinator
Laura Ferguson, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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JULY 26, 2021 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:3:57 On a motion by Member Buttorff, seconded by Member Bond, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the July 26, 2021 Board of Zoning Adjustment online meeting.

The vote was as follows:

Yes: Members Bond, Leanhart, Buttorff, Vozos, and Vice Chair Seale

Absent: Member Jagoe, and Chair Howard

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0028

Request:	Variance to allow a new principal structure to encroach into the street side yard setback
Project Name:	Zane Street Variance
Location:	736 Zane Street
Owner:	UMI Ventures, LLC
Applicant:	Mick Logsdon – Logsdon Surveying
Jurisdiction:	Louisville Metro
Council District:	6 – David James
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:

00:04:56 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:

Mick Logsdon, 6808 Woodrow Way, Louisville, KY 40228

Summary of testimony of those in favor:

00:09:00 Mick Logsdon spoke in favor of the request (see recording for detailed presentation).

The following spoke neither for nor against the request:

Terrance Elliott, 700 ½ W. St. Catherine, Louisville, KY

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CASE NUMBER 21-VARIANCE-0028

Summary of testimony of those neither for nor against:

00:11:35 Terrance Elliott spoke neither for nor against the request. Mr. Elliott stated the neighbors have not received any notification of this request (see recording for detailed presentation).

00:13:19 Joe Haberman, Planning & Design Manager, informed Mr. Elliott of the notification process including electronic notification. Mr. Haberman advised Mr. Elliott to speak with him after this meeting for information on how to sign up for notifications (see recording for detailed presentation).

00:13:43 Mr. Elliott concluded his testimony and Mr. Haberman further explained the notification process (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

00:19:32 Board Members' deliberation

00:20:07 On a motion by Member Leanhart, seconded by Member Vozos, 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 the proposed structure was approved by the Limerick Architectural Review Committee, 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

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WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the subject property is narrow and does not provide much space to meet all zoning regulations; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0028 does hereby **APPROVE** Variance from Land Development Code Section 5.1.12.A.2.e to allow a principal structure to encroach into the required street side yard setback (**Street Side Yard Requirement 3 ft., Request 1.5 ft., Variance 1.5 ft.**).

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0079

Request:	Variance to allow a private yard area to be less than the required 20% of the area of the lot
Project Name:	St. Xavier Street and Gilligan Street Variances
Location:	2707 St. Xavier Street and 2708 Gilligan Street
Owner:	Gerald O'meara
Applicant:	Bill Schroll – Schroll Land Surveying LLC
Jurisdiction:	Louisville Metro
Council District:	5 – Donna Purvis
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:

00:22:30 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:

Bill Schroll, 5450 Southview Drive, Louisville, KY 40214
Gerald O'meara, 12704 Castle Road, Louisville, KY 40272

Summary of testimony of those in favor:

00:26:24 Bill Schroll spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:28:59 Gerald O'meara 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 21-VARIANCE-0079

The following spoke in opposition of the request:

No one spoke.

00:33:40 Board Members' deliberation

00:35:15 On a motion by Member Bond, 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 variances will not adversely affect the public health, safety or welfare, because there is no proposed construction, and

WHEREAS, the Board further finds that the variances will not alter the essential character of the general vicinity as there is no proposed construction, and

WHEREAS, the Board further finds that the requested variances will not cause a hazard or nuisance to the public because there is no proposed construction, and

WHEREAS, the Board further finds that the requested variances will not allow an unreasonable circumvention of the zoning regulations as there is no proposed construction; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0079 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.3 to allow a private yard area to be less than the required 20% of the area of the lot (**St. Xavier Street Private Yard Area Requirement 786.1 sq. ft., Request 350 sq. ft., Variance 436.1 sq. ft.; Gilligan Street Private Yard Area Requirement 550.9 sq. ft., Request 360.5 sq. ft., Variance 190.4 sq. ft.**), SUBJECT to the following Condition of Approval.

Condition of Approval:

1. The applicant shall submit a Minor Subdivision Plat application to Planning & Design Services for review and approval to subdivide the property. The approved minor plat shall be recorded with the Jefferson County Clerk.

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CASE NUMBER 21-VARIANCE-0079

The vote was as follows:

Yes: Members Bond, Leanhart, Buttorff, Vozos, and Vice Chair Seale

Absent: Member Jagoe, and Chair Howard

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CASE NUMBER 21-VARIANCE-0082

Request:	Variance to allow an accessory structure to encroach into the street side yard setback
Project Name:	Washburn Avenue Variance
Location:	500 Washburn Avenue
Owner/Applicant:	Elizabeth Crush
Jurisdiction:	City of Lyndon
Council District:	7 – Paula McCraney
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:

00:37:32 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:
Elizabeth Crush, 500 Washburn Ave., Louisville, KY 40222

Summary of testimony of those in favor:

00:41:03 Elizabeth Crush spoke in favor of the request (see recording for detailed presentation).

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

00:42:52 Board Members' deliberation

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0082

00:43:07 On a motion by Member Buttorff, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, the owner'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, 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 accessory structures in the area that encroach into the street side yard setback. Also, the subject property has a significant amount of space on the Florida Avenue side that is dedicated to right-of-way and does not provide adequate space to meet the setback requirement, 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 subject property has a significant amount of space on the Florida Avenue side that is dedicated to right-of-way and does not provide adequate space to meet the setback requirement, and

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0082 does hereby **APPROVE** Variance from City of Lyndon Development Code Table 5.3.1 to allow an accessory structure to encroach into the required street side yard setback (**Street Side Yard Requirement 25 ft., Request 1 ft. 2 in., Variance 23 ft. 10 in.**).

The vote was as follows:

Yes: Members Bond, Leanhart, Buttorff, Vozos, and Vice Chair Seale

Absent: Member Jagoe, and Chair Howard

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PUBLIC HEARING

CASE NUMBER 21-CAT3-0004

Request:	Category 3 Development Plan with a Variance, waivers and review of outdoor amenity area standards
Project Name:	1391 Dixie Hwy
Location:	1391 Dixie Hwy
Owner:	DH QOZB, LLC
Applicant:	DH QOZB, LLC
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Jay Luckett, 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:

00:45:06 Jay Luckett presented the case and showed a Powerpoint presentation. Mr. Luckett responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Cliff Ashburner, 101 S. 5th Street, Louisville, KY 40202
Russell Brooks, 164 Crescent Ridge Drive, Taylorsville, KY 40071

Summary of testimony of those in favor:

00:55:29 Cliff Ashburner spoke in favor of the request and showed a Powerpoint presentation. Mr. Ashburner responded to questions from the Board Members (see recording for detailed presentation).

01:09:00 Russell Brooks 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 21-CAT3-0004

01:12:11 Mr. Ashburner continued his testimony. Mr. Ashburner and Mr. Brooks responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

Denise Dickerson, 1612 Wilson Ave., Louisville, KY 40210

Summary of testimony of those in opposition:

01:16:15 Denise Dickerson spoke in opposition of the request. Ms. Dickerson stated she is opposed to the request because the land is poisoned. Ms. Dickerson stated the land is contaminated. Ms. Dickerson approached the dais and showed the Board Members a video on her telephone. Mr. Haberman advised Ms. Dickerson that she would have to provide the video to Mr. Luckett as part of the case file. Mr. Haberman asked Mr. Ashburner if he wanted to see the video, and Mr. Ashburner approached the dais as well. Ms. Dickerson was speaking while reviewing the video, however, the testimony was not audible. Ms. Dickerson returned to the podium and continued her testimony. Mr. Haberman reminded Ms. Dickerson to provide a copy of the recording to Mr. Luckett (see recording for detailed presentation).

REBUTTAL:

01:27:49 Mr. Ashburner spoke in rebuttal. Mr. Ashburner and Mr. Brooks responded to questions from the Board Members (see recording for detailed presentation).

01:38:30 Laura Ferguson, Legal Counsel, explained having a land covenant on residential use (see recording for detailed presentation).

01:39:10 Mr. Brooks and Mr. Ashburner responded to questions from the Board Members (see recording for detailed presentation).

Additional opposition testimony:

01:41:25 Ms. Dickerson provided additional testimony in opposition. Ms. Dickerson stated there are barrels of poison buried on the property. Ms. Dickerson responded to questions from the Board Members (see recording for detailed presentation).

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REBUTTAL:

01:45:32 Mr. Ashburner spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

01:49:20 Board Members' deliberation

NOTE: During deliberation, Mr. Ashburner agreed to increase the landscaping for Waiver #2 to one and a half times the requirement stipulated in Chapter 10

02:01:00 On a motion by Member Vozos, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Variance from Land Development Code Section 5.2.5.C.3.a to exceed the maximum 25-foot front setback by up to 975 feet as shown on the development plan:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect the public health, safety or welfare. While heavy truck traffic adjacent to residential properties has a potential to negatively impact residents, the applicant has agreed to provide enhanced screening and landscaping to buffer the drive lane near residences, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the development is consistent with similar industrial development 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 applicant will adequately buffer and screen adjacent to residential properties, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed development is consistent with other development in the same zone; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CAT3-0004 (21-VARIANCE-0039) does hereby **APPROVE** Variance from Land

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CASE NUMBER 21-CAT3-0004

Development Code Section 5.2.5.C.3.a to exceed the maximum 25-foot front setback by up to 975 feet as shown on the development plan.

The vote was as follows:

Yes: Members Bond, Leanhart, Buttorff, Vozos, and Vice Chair Seale

Absent: Member Jagoe, and Chair Howard

02:02:53 On a motion by Member Leanhart, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Waiver from Land Development Code section 10.2.10 to eliminate the 10-foot Vehicle Use Area Landscape Buffer Area adjacent to the unimproved alley in the southwest corner of the site:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners, as the buffer faces an unimproved alley, railroad and industrial development. All other screening and buffering will be provided around the subject site, and

WHEREAS, the Board further finds that the waiver will not violate specific guidelines of the Comprehensive Plan. All required buffering and screening will still be provided adjacent to residential properties and public roads except adjacent to this undeveloped alley, 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 as all other buffering and screening will be provided on the subject site, and

WHEREAS, the Board further finds that the strict application would create an unnecessary hardship on the applicant, as this portion of the site faces unimproved right-of-way and other industrial development which does not need screening from this use; and

Waiver from Land Development Code section 5.9.2.C.4 to permit parking and circulation in front of the building within the Traditional Workplace form district:

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners, as there adequate buffering and screening will be provided adjacent to residential properties and roadways around the subject site, and

WHEREAS, the Board further finds that the waiver will not violate specific guidelines of the Comprehensive Plan. Adequate screening will be provided, and the parking lot will not be visible from Dixie Highway due to a combination of setback and screening, 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 as all other site design standards of the Land Development Code will be met on the subject site except for where waiver and variance are requested, and

WHEREAS, the Board further finds that the strict application would create an unnecessary hardship on the applicant, as it would necessitate siting the structure much closer to adjacent residential properties; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CAT3-0004 does hereby **APPROVE** (21-WAIVER-0048) Waiver from Land Development Code section 10.2.10 to eliminate the 10-foot Vehicle Use Area Landscape Buffer Area adjacent to the unimproved alley in the southwest corner of the site, and (21-WAIVER-0058) Waiver from Land Development Code section 5.9.2.C.4 to permit parking and circulation in front of the building within the Traditional Workplace form district, with the increase in landscaping to one and one-half times the requirement of Chapter 10 between the waiver area and the residential properties.

The vote was as follows:

Yes: Members Bond, Leanhart, Buttorff, Vozos, and Vice Chair Seale

Absent: Member Jagoe, and Chair Howard

02:05:24 On a motion by Member Leanhart, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Category 3 Development Plan with approval of Outdoor Amenity Area Design:

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that all the applicable Guidelines and Policies of the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CAT3-0004 does hereby **APPROVE** Category 3 Development Plan with approval of Outdoor Amenity Area Design.

The vote was as follows:

Yes: Members Bond, Leanhart, Buttorff, Vozos, and Vice Chair Seale

Absent: Member Jagoe, and Chair Howard

02:06:14 Meeting was recessed.

02:07:16 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 21-CUP-0092

Request:	Conditional Use Permit to allow an addition to an existing private institutional use
Project Name:	Thomas Jefferson Unitarian Church Addition
Location:	4936 Brownsboro Road
Owner:	Thomas Jefferson Unitarian Church
Applicant:	Tony Sweazy – Allen Construction
Jurisdiction:	Louisville Metro
Council District:	7 – Paula McCraney
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:

02:07:16 Zach Schwager presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The follow spoke in favor of the request:

Tony Sweazy, 4715 Southern Parkway, Louisville, KY 40214

Summary of testimony of those in favor:

02:09:49 Tony Sweazy 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.

02:11:40 Board Members' deliberation

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PUBLIC HEARING

CASE NUMBER 21-CUP-0092

02:12:03 On a motion by Member Leanhart, seconded by Member Vozos, 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 requests relief from this requirement.**
- B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated. **This item will be met.**
- 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. **This item will be met.**
- D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99). **This item must be met.**

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- 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 finds there will be no negative impacts on surrounding residential properties and finds it unnecessary to set hours of operation.**

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0092 does hereby **APPROVE** Conditional Use Permit to allow an addition to an existing private institutional use (LDC 4.2.65), with **RELIEF** from Requirement 4A due to existing conditions of the property, 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 a private institution until further review and approval by the Board.

NOTE: Member Buttorff left the meeting at approximately 3:30 p.m.

The vote was as follows:

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

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CASE NUMBER 21-CUP-0094

Request:	Conditional Use Permit to allow a daycare in the R-6 Residential Multi-Family zoning district and a landscape waiver to not provide the landscape buffer area along the east and west property lines
Project Name:	Toyland Play Palace Childcare
Location:	2516 W. Chestnut Street
Owner/Applicant:	Demetrice Floyd
Jurisdiction:	Louisville Metro
Council District:	5 – Donna Purvis
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:

02:14:51 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:

Demetrice Floyd, 2516 W. Chestnut St., Louisville, KY 40211

Summary of testimony of those in favor:

02:21:45 Demetrice Floyd 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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02:23:12 Board Members' deliberation

02:24:48 On a motion by Member Vozos, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Conditional Use Permit to allow a day care facility in the R-6 Residential Multi-family Zoning District (LDC 4.2.19):

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:

Day Care Facilities may be allowed in the R-R, R-E, R-1, R-2, R-3, U-N, R-5A, R-5B, R-6, and R-7 districts upon the granting of a Conditional Use Permit and in compliance with the listed requirements.

A. Signs - There shall be allowed one non-illuminated sign identifying the name and use, which sign shall be limited in size to four square feet and be placed on the building.

The applicant is aware of this requirement.

B. Residential Structure - The structure shall remain or shall be constructed so that the exterior design and ornamentation is residential in character and compatible with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential (except for the sign). **There are no proposed additions to the existing structure, and it will continue to have a residential design.**

C. Alterations or Improvements to the Structure - Where such a use is permitted in a structure which has been used as a residence, the permittee shall make no substantial alterations or improvements to the structure which would impair the

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structure's use as a residence at a later time. **There are no proposed additions and it will remain residential in character and design.**

- D. On-Site Drop-off and Pick-up Area - An on-site area shall be provided where passengers from automobiles may safely exit the automobile and enter the building and vice versa. The design of this area must be approved by the appropriate agency responsible for transportation planning. **The applicant has been informed of this requirement and has been provided the information on how to apply to Public Works for approval of an on-street drop off and pick up area.**
- E. Parking Spaces - The appropriate number of parking spaces shall be provided for members of the day care center staff. The number of parking spaces required pursuant to this section shall be determined by the Board of Zoning Adjustment and may thereafter be modified by the Board of Zoning Adjustment by petition from the owner of the premises granted a Conditional Use Permit or upon recommendation from the zoning inspector or other authorized personnel after an annual inspection of the premises or other such inspection. The parking layout must be approved by the appropriate agency responsible for transportation planning. **Transportation Planning has reviewed the and approved the parking. The applicant intends to lay gravel at the rear of the property, which has also been approved by Transportation Planning. There is space for four off-street parking spaces, two in the garage and two to the side of the garage.**
- F. Drainage Control - The development plan shall have the approval of the appropriate agency responsible for surface drainage control. **MSD has reviewed and approved the plan.**
- G. All buildings and structures shall conform to the requirements of the zoning and form district in which they are located. **The existing structures meet the zoning and form district requirements. There are no proposed additions.**
- H. Fence - A fence with a minimum height of 4 feet shall be erected around the outdoor play area. **The applicant is aware of this requirement. Staff proposes a condition of approval that the play area be shown on the plan with required fencing identified.**
- I. Alterations or Improvements to the Property – Where such a use is permitted on a lot with an existing residential structure; the residential character of the lot shall not be disturbed by exterior changes to the property that are visible from the public street. Off-street parking shall not be located within the front and/or street-side yards. Drop-off and pick-up shall not be located in front yard and/or street-side yard of the existing

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residential structure, except for driveways approved by Metro Public Works. **There are no proposed alterations to the existing structure. It will remain residential in character and design. The off-street parking is located at the rear of the property off the alley. There are also three on-street parking spaces and the proposed space for the drop off and pick up area.**

- J. Conditional use permits for Day Care Facilities in R-4 and R-5 zoning districts issued prior to the effective date of this ordinance (March 9, 2011) may continue to operate as authorized under the approved conditional use permit. Upon request by an applicant, such conditional use permits may be modified in any manner the Board determined, in its discretion, to be appropriate. **This section does not apply;** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0094 does hereby **APPROVE** Conditional Use Permit to allow a day care facility in the R-6 Residential Multi-family Zoning District (LDC 4.2.19), **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 day care facility (providing care for more than 6 children) until further review and approval by the Board.
3. The applicant shall show the location of the outdoor play area on the plan prior to operation of the day care facility.
4. The applicant shall install a six-foot privacy fence to enclose the rear of the property. The fence shall be shown on the approved conditional use permit plan. The fence shall be installed prior to operation of the day care facility.

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The vote was as follows:

Yes: Members Bond, Leanhart, Vozos, and Vice Chair Seale

Absent: Members Jagoe, Buttorff, and Chair Howard

02:25:58 On a motion by Member Vozos, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Landscape Waiver to not provide the perimeter landscape buffer areas:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as there are a variety of land uses in the general vicinity, and

WHEREAS, the Board further finds that Community Form Goal 1, Policies 9 and 10 of Plan 2040 call to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements and the impacts caused when incompatible developments unavoidably occur adjacent to one another. Community Form Goal 1, Policy 12 states design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. The waiver request can be justified because there are no proposed additions to the structures on the property, there is adequate parking as determined by Transportation Planning and the Planning Director, and the property is not large enough to reasonably prove the required landscaping, 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 as they are applying for the waiver to bring the existing site conditions into compliance, and

WHEREAS, the Board further finds that the strict application of the provision would deprive the applicant of the reasonable use of the land because the property is not large enough to install the required landscaping. The applicant is also proposing to keep the residential character of the property; now, therefore be it

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RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0094 (21-WAIVER-0088) does hereby **APPROVE** Landscape Waiver to not provide the perimeter landscape buffer areas.

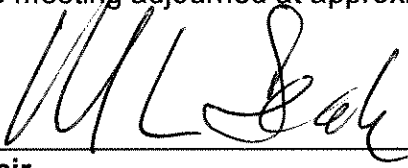
The vote was as follows:

Yes: Members Bond, Leanhart, Vozos, and Vice Chair Seale

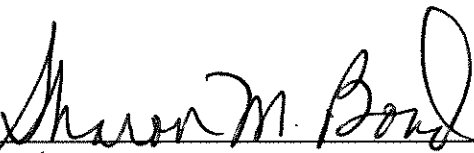
Absent: Members Jagoe, Buttorff, and Chair Howard

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The meeting adjourned at approximately 3:45 p.m.



Chair



Secretary