

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

August 30, 2021

A meeting of the Louisville Metro Board of Zoning Adjustment was held on August 30, 2021 at 1:00 p.m. online via Cisco Webex Video Teleconferencing.

Members Present:

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

Staff Members Present:

Joe Haberman, Planning & Design Manager
Brian Davis, Planning & Design Manager
Chris French, Planning & Design Supervisor
Zach Schwager, Planner I
Heather Pollock, Planner I
Jon Crumbie, Planning & Design Coordinator
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 August 30, 2021 Board of Zoning Adjustment meeting was held online.

The following cases were heard:

**BOARD OF ZONING ADJUSTMENT MINUTES
August 30, 2021**

AUGUST 16, 2021 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:05:18 On a motion by Vice Chair Seale, seconded by Member Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the August 16, 2021 Board of Zoning Adjustment online meeting.

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
August 30, 2021

BUSINESS SESSION

CASE NUMBER 21-MVARIANCE-0004

Request: Modified variance to allow a private yard area to be less than the required 30% of the area of the lot
Project Name: Hill Road Modified Variance
Location: 58 Hill Road
Owner/Applicant: Tisha Davis
Jurisdiction: Louisville Metro
Council District: 8 – Cassie Chambers Armstrong
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:

00:07:41 Zach Schwager presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

00:12:12 Board Members' deliberation

00:12:35 On a motion by Vice Chair Seale, 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 structure must be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the proposed deck will not alter the essential character of the general vicinity as it is going to be built in the same location as the existing garage at the rear of the property, and

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BUSINESS SESSION

CASE NUMBER 21-MVARIANCE-0004

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 there is additional open space at the rear of the lot in the accessory structure area that cannot be included in the calculation. If this area could be counted toward the private yard then a variance would not be required; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-MVARIANCE-0004 does hereby **APPROVE Modified 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 the lot. **(Private Yard Area Requirement 6,207 sq. ft., Request 4,900 sq. ft., Variance 1,307 sq. ft.)**.

NOTE: Member Leanhart lost connectivity and was unable to rejoin today's meeting.

The vote was as follows:

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

Absent: Member Leanhart

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BUSINESS SESSION

CASE NUMBER 21-VARIANCE-0110

Request: Variance to allow a principal structure to encroach into the side yard setback
Project Name: Alton Road Variance
Location: 4029 Alton Road
Owner/Applicant: Jo Dee Wiggins & Denis Wiggins Jr/ Jonathan Davis
Jurisdiction: St. Matthews
Council District: 26 – Brent Ackerson
Case Manager: Heather Pollock, 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:

00:14:34 Heather Pollock presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

00:21:09 Board Members' deliberation

00:22:31 On a motion by Member Bond, 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 there are other properties in the area that have encroachments into the side yard setback, and

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CASE NUMBER 21-VARIANCE-0110

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 garage is existing and by attaching it to the principal structure it causes an encroachment into the side yard setback; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0110 does hereby **APPROVE** Variance from St. Matthews Development Code section 4.7.C.2.b to allow a principal structure to encroach into the side yard setback (**Side Yard Requirement 5 ft., Request 2 ft., Variance 3 ft.**).

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0071

Request: Variance to allow an addition to a principal structure to encroach into the street side yard setback
Project Name: S. Hancock Street Variance
Location: 913 S. Hancock Street
Owner/Applicant: Aimee Overly
Jurisdiction: Louisville Metro
Council District: 4 – Jecorey Arthur
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:

00:27:04 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:

Aimme Overly, 1619 S. 3rd Street, #4, Louisville, KY 40208

Summary of testimony of those in favor:

00:30:40 Aimme Overly 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.

00:37:13 Board Members' deliberation

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0071

00:37:32 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:

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 structures in the area that encroach into the street side yard setback, 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 is only 29 ft. in width; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0071 does hereby **APPROVE** Variance from Land Development Code table 5.2.2 to allow a principal structure to encroach into the street side yard setback (**Street Side Yard Requirement 3 ft., Request 0 ft., Variance 3 ft.**), **SUBJECT** to the following Condition of Approval.

Condition of Approval:

1. A survey of the northern property line shall be completed prior to the commencement of construction activity and shall be staked in the field. No projections from the façade or building foundation shall cross the property line; any such projections shall be accommodated by stepping back the proposed structure from the property line.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0094

Request: Variance to allow a fence to exceed 48 inches in height in the street side yard setback
Project Name: Buechel Bank Road Variance
Location: 1924 Buechel Bank Road
Owner/Applicant: Christopher Zimmerer
Jurisdiction: Louisville Metro
Council District: 2 – Barbara Shanklin
Case Manager: Zach Schwager, Planner I

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

00:41:35 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:

Christopher Zimmerer, 1924 Buechel Bank Rd., Louisville, KY 40218
Paul Nelson, 4016 Handley Ave., Louisville, KY 40218

Summary of testimony of those in favor:

00:47:48 Christopher Zimmerer spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:52:23 Mr. Schwager clarified that the fence is in the street side yard. Mr. Schwager responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 21-VARIANCE-0094

00:53:45 Mr. Zimmerer responded to questions from the Board Members (see recording for detailed presentation).

00:55:07 Mr. Schwager responded to questions from the Board Members (see recording for detailed presentation).

00:59:36 Paul Nelson spoke in favor of the request (see recording for detailed presentation).

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

01:01:18 Board Members' deliberation

01:09:24 On a motion by Vice Chair Seale, seconded by Member Buttorff, the following resolution, based upon the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant as the height of the fence could be reduced to meet the requirement along Handley Avenue, and

WHEREAS, the Board further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the fence has been constructed and the applicant is requesting the variance after the fact; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0094 does hereby **DENY** Variance from Land Development Code section 4.4.3.A.1.a.i to allow a fence to exceed 48 inches in height in the street side yard setback.

The vote was as follows:

Yes: Members Buttorff, Bond, and Vice Chair Seale

No: Member Vozos, and Chair Howard

Absent: Member Leanhart

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0103

Request: Variance to allow an existing detached garage to encroach into the required side yard setback
Project Name: Wingate Road Variance
Location: 4317 Wingate Road
Owner/Applicant: Laura Fowler
Jurisdiction: Woodlawn Park
Council District: 7 – Paula McCraney
Case Manager: Jon E. Crumbie, Planning and Design Coordinator

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

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

Agency testimony:

01:14:44 Jon Crumbie presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The follow spoke in favor of the request:

David Crittenden, 10943 Old Harrods Woods Circle, Louisville, KY 40223
Laura Fowler, 4317 Wingate Rd., Louisville, KY 40207

Summary of testimony of those in favor:

01:20:29 Chair Howard swore in David Crittenden and Laura Fowler at the same time. David Crittenden spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:24:42 Laura Fowler and Mr. Crittenden responded to questions from the Board Members (see recording for detailed presentation).

01:27:37 Jon Crumbie responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 21-VARIANCE-0103

01:30:00 Mr. Crittenden responded to questions from the Board Members regarding the location of the property line (see recording for detailed presentation).

The following spoke in opposition of the request:

William Brown, 4319 Wingate Rd., Louisville, KY 40207

Summary of testimony of those in opposition:

01:34:00 William Brown spoke in opposition of the request and showed a Powerpoint presentation. Mr. Brown stated the hardship would be more of a self-created hardship rather than an undue hardship, as this structure has already been built without a permit and is now getting a variance six years later. Mr. Brown stated there is no reason they can't move the garage more to the interior of their back yard. Mr. Brown stated he did have an issue in 2020 when the roof was replaced where shingles and shingle nails were thrown into his yard. Mr. Brown stated the foundation is not encroaching, it is trespassing. Mr. Brown stated the sign notifying of the public hearing was taken down the same day it was put it. Mr. Brown responded to questions from the Board Members (see recording for detailed presentation).

01:50:18 Joe Haberman stated the bylaws require the sign to go up five days in advance, and staff put it up well in advance of five days. Mr. Haberman questioned if the sign was put back up and did anyone contact staff to let us know it was down, because this is a noticing issue (see recording for detailed presentation).

01:51:06 Mr. Brown stated the sign was put up on the 16th and was taken down that same day. Mr. Brown stated he thinks up until at least Friday it was still down and just laying in the yard (see recording for detailed presentation).

REBUTTAL:

01:53:12 David Crittenden spoke in rebuttal. Mr. Crittenden stated there is a letter in the record in support from Juli Bobbitt. Chair Howard said we have it. Mr. Crittenden stated the sign was present the last time Laura was at the property a couple of days ago. Mr. Crittenden stated the yard has been mowed and the sign might be temporarily removed during the process of mowing but then put back. Mr. Crittenden stated the fact that Ms. Bobbitt has provided a letter in support tends to indicate that folks are seeing the sign was there. Mr. Crittenden stated the foundation that's there did not move one inch, they did not add the foundation or put it closer to the fence. Mr. Crittenden stated the gravel is just ground cover, not part of the foundation. Mr. Crittenden stated that Mr.

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CASE NUMBER 21-VARIANCE-0103

Brown only brought the issue up when his client put the property up for sale. Mr. Crittenden stated when they started to move the gravel it exposed some holes in the bottom of his fence, and they knew he owned a dog and they did not want to be blamed if his dog somehow got out underneath the fence. Mr. Crittenden stated the hardship far outweighs any hypothetical risks regarding maintenance (see recording for detailed presentation).

01:56:02 Mr. Crumbie responded to a question from Chair Howard regarding the survey (see recording for detailed presentation).

01:59:57 Board Members' deliberation

02:07:05 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:

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 detached garage is existing and has been in place for a number of years; however, staff is concerned that the variance could adversely affect the adjacent property owner because maintenance of the structure may require encroachment onto the property.

The Board finds there is enough space for maintenance to occur on the site, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the detached garage has been in place since 2015, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the detached garage has been in place since 2015, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the encroach is only 0.7 feet; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0103 does hereby **APPROVE** Variance from Land Development Code section 5.4.2.C.3.a. to allow an existing detached garage to encroach into the required

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CASE NUMBER 21-VARIANCE-0103

side yard setback (**East Side Yard Requirement 2.0 ft., Request 1.3 ft., Variance 0.7 ft.**).

The vote was as follows:

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

Absent: Member Leanhart

02:17:04 Meeting was recessed

02:17:11 Meeting was reconvened

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CASE NUMBER 21-VARIANCE-0104

Request: Variance to allow a proposed detached garage to encroach into the required private yard area
Project Name: Goddard Avenue Variance
Location: 1522 Goddard Avenue
Owner/Applicant: Beth Stuber
Jurisdiction: Louisville Metro
Council District: 8 – Cassie Chambers Armstrong
Case Manager: Jon E. Crumbie, Planning and Design Coordinator

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

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

Agency testimony:

02:17:11 Jon Crumbie presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Beth Stuber, 1522 Goddard Ave., Louisville, KY 40204

Summary of testimony of those in favor:

02:20:05 Beth Stuber 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.

02:24:15 Board Members' deliberation

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0104

02:24:37 On a motion by Member Bond, 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 structure must be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the proposed detached garage will not alter the essential character of the general vicinity as it is going to be built with material that will be in character with the existing residence and surrounding residential neighborhood, 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 there is additional open space at the rear of the lot in the accessory structure area that cannot be included in the calculation. If this area could be counted toward the private yard, then a variance would not be required; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-Variance-0104 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 the lot (**Private Yard Area Requirement 1,980 sq. ft., Request 1,600 sq. ft., Variance 380 sq. ft.**).

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0107

Request:	Variance to allow an addition to a principal structure to encroach into the side yard setback
Project Name:	E. Oak Variance
Location:	926 East Oak Street
Owner/Applicant:	John Jeffries
Jurisdiction:	Louisville Metro
Council District:	4 – Jecorey Arthur
Case Manager:	Heather Pollock, 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:

02:26:56 Heather Pollock presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

John Jeffries, 7670 LaGrange Rd., Smithfield, KY

Summary of testimony of those in favor:

02:30:20 John Jeffries 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.

02:35:08 Board Members' deliberation

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0107

02:35:16 On a motion by Member Buttorff, seconded by Vice Chair Seale, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare, 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 structures in the area that encroach into the side yard setback, 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 existing house currently encroaches into the side yard setback and the addition will line up with it; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0107 does hereby **APPROVE** Variance from Land Development Code table 5.2.2 to allow a principal structure to encroach into the side yard setback (**Side Yard Requirement 3 ft., Request 0.2 ft., Variance 2.8 ft.**).

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0109

Request: Variance to permit a freestanding multi-tenant sign to exceed the total area permitted
Project Name: Sign Variance
Location: 5801 Preston Highway
Owner/Applicant: Signarama Downtown
Jurisdiction: Louisville Metro
Council District: 2 – Barbara Shanklin
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:

02:37:29 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members. The Board Members, Staff, and Legal Counsel discussed items of concern including owner consent and access agreements (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Clare Blim, 1430 Mellwood Ave., Louisville, KY 40206

Summary of testimony of those in favor:

03:03:19 Clare Blim spoke in favor of the request. Ms. Blim stated the owner of the property is Sunshine Real Estate and there is a new building in place on that lot now. Ms. Blim stated she did not have written consent from the owner. The Board Members and staff discussed continuing the case to allow for additional review (see recording for detailed presentation).

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CASE NUMBER 21-VARIANCE-0109

The following spoke in opposition of the request:

No one spoke.

03:08:02 On a motion by Vice Chair Seale, seconded by Member Vozos, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 21-VARIANCE-0109 to a **DATE UNCERTAIN**.

The vote was as follows:

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

Absent: Member Leanhart

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CASE NUMBER 21-CUP-0104

Request: Conditional Use Permit to allow a short term rental of a dwelling unit
Project Name: Transylvania Beach Road Short Term Rental
Location: 6312 Transylvania Beach Road
Owner/Applicant: Kari Guy
Jurisdiction: Louisville Metro
Council District: 16 – Scott Reed
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:

03:09:17 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:

Kari Guy, 6312 Transylvania Beach Rd., Prospect, KY 40059

Summary of testimony of those in favor:

03:12:43 Kari Guy 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:

John Edward Buckley, 617 Dorsey Way, Louisville, KY 40223

Summary of testimony of those in opposition:

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CASE NUMBER 21-CUP-0104

03:19:49 John Edward Buckley spoke in opposition of the request. Mr. Buckley stated he doesn't know how this is a primary residence when she is never there. Mr. Buckley stated the renters that have been there bring dogs and let them run loose. Joe Haberman provided information regarding primary residency. Mr. Schwager stated the property is registered for a short term rental because it is the primary residence (see recording for detailed presentation).

Additional testimony in support:

03:26:10 David Dafoe (6302 Transylvania Beach Rd.) spoke in support of the request (see recording for detailed presentation).

REBUTTAL:

03:27:57 Kari Guy spoke in rebuttal and responded to Mr. Buckley's concerns (see recording for detailed presentation).

03:31:38 Board Members' deliberation

03:32:09 On a motion by Member Bond, 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 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:

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CASE NUMBER 21-CUP-0104

4.2.63 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 three bedrooms; LDC regulations permit up to eight guests.**
- 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

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within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The dwelling unit is a single-family residence.**

- 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 zero on-street parking spaces and there is an attached garage that can accommodate one car as well as additional space in the driveway.**
- 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.**
- 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

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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 21-CUP-0104 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit, **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 three bedrooms. A modification of the conditional use permit shall be required to allow additional bedrooms.

The vote was as follows:

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

Absent: Member Leanhart

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CASE NUMBER 21-CUP-0107

Request: Conditional Use permit to allow outdoor alcohol sales and consumption for a restaurant in the C-1 zoning district
Project Name: First Watch
Location: 4948 U.S. Highway 42
Owner: Frankfort Depot 2, LLC
Applicant: HSH Holland, Inc.
Jurisdiction: Northfield
Council District: 7 – Paula McCraney
Case Manager: Jon E. Crumbie, Planning and Design Coordinator

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

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

Agency testimony:

03:34:11 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Mike Hill, 503 Washburn Ave., Louisville, KY 40222
Amanda Williams, 5120 Taylor Mill Rd., Suite 300, Taylor Mill, KY 41015

Summary of testimony of those in favor:

03:39:23 Mike Hill spoke in favor of the request and showed a Powerpoint presentation. Mr. Hill responded to questions from the Board Members (see recording for detailed presentation).

03:47:28 Amanda Williams stated she was available to answer questions (see recording for detailed presentation).

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The following spoke neither for nor against the request:

Councilwoman Paula McCraney, 7115 Chippenham Rd., Louisville, KY 40222

Summary of testimony of those neither for nor against:

03:49:01 Councilwoman Paula McCraney spoke neither for nor against the request. Councilwoman McCraney asked the Board to change the 1:00 a.m. to 11:00 p.m. Councilwoman McCraney responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

REBUTTAL:

03:54:26 Amanda Williams spoke in rebuttal and agreed to cease the use of the outdoor dining area by 11:00 p.m. (see recording for detailed presentation).

03:56:36 Board Members' deliberation

03:58:33 On a motion by Vice Chair 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 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:

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4.2.41 Outdoor Alcohol Sales and Consumption/Indoor Entertainment Activity for a Restaurant in the C-1 Zoning District Outdoor alcohol sales and consumption and/or indoor live entertainment for a restaurant may be permitted in the C1 zoning district upon the granting of conditional use permit and compliance with the listed requirements.

A. All outdoor areas for the sale and consumption of alcohol must have designated boundaries. **The proposed outdoor areas have designated boundaries.**

B. Outdoor dining areas within the public right-of-way must receive approval from the agency responsible for transportation engineering and shall be designed in accordance with agency standards. **The outdoor dining areas are not located within the public right-of-way.**

C. Outdoor dining areas adjacent to the public right-of-way shall contain a physical barrier that is at least three feet in height. The barrier should be designed to permit existing legal access from building to the adjacent public right-of-way. **The outdoor dining areas are not located adjacent to the public right-of-way.**

D. Outdoor dining areas that include the sale and consumption of alcohol within 50 feet of a residentially zoned or used property shall provide a six foot continuous screen as part of the designated boundary for the areas of the outdoor area within 50 feet of residentially used or zoned property. The continuous screen shall be in conformance with the Chapter 10, Part 4 (Implementation Standards). **The outdoor dining areas are not located within 50 feet of residentially zoned or used property.**

E. This conditional use permit shall be limited to restaurant uses in the C-1 that hold the following types of ABC licenses:

1. Restaurant liquor and wine license by the drink for 100 plus seats
2. Restaurant wine license by the drink for restaurants with seating for 100 and receives at least 70 percent gross receipts from food sales. **The appropriate ABC license will be obtained.**

F. The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 1 A.M. **The Board of Zoning Adjustment changed this requirement to 11:00 p.m. with Condition of Approval #3.**

G. The entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99). **All activities will be compliant with the Metro Noise Ordinance.**

H. The Board may require additional and more restrictive requirements than those listed above based on the conditions of the specific location and the characteristics of the specific restaurant; now, therefore be it

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RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0107 does hereby **APPROVE** Conditional Use Permit to allow outdoor alcohol sales and consumption, **SUBJECT** to the following Conditions of Approval.

Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for outdoor alcohol sales and consumption until further review and approval by the Board.
3. The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 11:00 p.m.

The vote was as follows:

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

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CASE NUMBER 21-CUP-0108

Request:	Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host
Project Name:	East Burnett Short Term Rental
Location:	736 E. Burnett Avenue
Owner/Applicant:	Down Under Enterprises 1, LLC
Representative:	Michael Marks
Jurisdiction:	Louisville Metro
Council District:	4 – Jecorey Arthur
Case Manager:	Chris French, AICP, Planning and Design Supervisor

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:

04:01:15 Chris French presented the case and showed a Powerpoint presentation. Mr. French responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Michael Marks, 2933 Bowman Ave., Louisville, KY 40205

Summary of testimony of those in favor:

04:05:42 Michael Marks spoke in favor of the request and showed a Powerpoint presentation. Mr. Marks stated the property is going to be a four bedroom. Mr. Haberman stated the four bedrooms would have to meet Louisville Metro Code for the requirements of being a bedroom. Mr. Marks responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

04:21:51 Board Members' deliberation

04:24:17 On a motion by Vice Chair 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 proposal does not conflict 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, and

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

WHEREAS, the Board further finds that:

4.2.63 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

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number of bedrooms plus six individuals. **The subject property is smaller than two acres. The applicant states that the residence has 3 bedrooms that will allow a maximum number of 8 guests.**

- 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, within 600' of the subject property, there are no properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host.**
- 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 applicant has been informed of this requirement.**
- 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. **Appears to be at least one on-street parking space in front of the property and on-street parking available in the neighborhood.**

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- 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.**
- 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 21-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 in an R-6 zoning district and Traditional Neighborhood Form District, **SUBJECT** to the following Condition of Approval.

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Condition of Approval:

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

NOTE: Member Vozos left the meeting at approximately 5:20 p.m.

The vote was as follows:

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

Absent: Members Leanhart, and Vozos

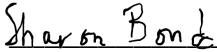
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04:27:06 Prior to adjournment, Joe Haberman, Planning & Design Manager, advised the Board Members that staff has been working on putting together training for the Board Members (see recording for detailed presentation).

The meeting adjourned at approximately 5:46 p.m.

DocuSigned by:

Chair 7FEAC7453...

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Secretary 1A78F585F5241F...