

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

June 27, 2022

The Regular meeting of the Louisville Metro Board of Zoning Adjustment was held on June 27, 2022 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Lula Howard, Chair
Richard Buttorff, Vice Chair
Sharon Bond, Secretary
Brandt Ford
Kimberly Leanhart

Members Absent:

Yani Vozos

Staff Members Present:

Joe Reverman, Planning & Design Assistant Director
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Heather Pollock, Planner I
Dante St. German, Planner II
Jay Lockett, Planner II
Molly Clark, Planner I
Zach Schwager, Planner I
Laura Ferguson, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

**BOARD OF ZONING ADJUSTMENT
REGULAR MEETING MINUTES
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MAY 23, 2022 BOARD OF ZONING ADJUSTMENT SPECIAL MEETING MINUTES

00:20:44 On a motion by Vice Chair Buttorff, seconded by Member Ford, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Minutes of the May 23, 2022 Board of Zoning Adjustment Special meeting.

The vote was as follows:

Yes: Members Bond, Leanhart, Ford, Vice Chair Buttorff, and Chair Howard

Absent: Member Vozos

**BOARD OF ZONING ADJUSTMENT
REGULAR MEETING MINUTES
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BUSINESS SESSION

22-VARIANCE-0025

Request:	Waiver of BOZA Policy 3.02.04 to allow a new application for Board action within one year of Board action on the same tract of property.
Project Name:	Plymouth Road Variance
Location:	4000 Plymouth Road
Owner/Applicant:	Theodore Blevins
Representative:	Bradley Hicks, Grapevine Properties, INC
Jurisdiction:	City of 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:

00:21:48 Heather Pollock presented the case and showed a slideshow presentation. Ms. Pollock responded to questions from the Board Members (see recording for detailed presentation).

00:33:19 On a motion by Vice Chair Buttorff, seconded by Member Ford, the following resolution, based upon the plans and staff testimony, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 22-VARIANCE-0025 does hereby **DENY** Waiver of BOZA Policy 3.02.04 to allow a new application for Board action within one year of Board action on the same tract of property, as there is not a significant difference in the original plan and the revised plan.

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BUSINESS SESSION

22-VARIANCE-0025

The vote was as follows:

Yes: Members Bond, Leanhart, Ford, Vice Chair Buttorff, and Chair Howard

Absent: Member Vozos

**BOARD OF ZONING ADJUSTMENT
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BUSINESS SESSION

CASE NUMBER 22-VARIANCE-0079

Request:	Variance to allow an addition to encroach into the side yard setback
Project Name:	Lightfoot Road Variance
Location:	495 Lightfoot Road
Owner/Applicant:	Jodi & Michael Noble
Representative:	Melody Masoud, Amlung Construction Co, INC.
Jurisdiction:	Louisville Metro
Council District:	16 – Scott Reed
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:

00:35:22 Heather Pollock presented the case and showed a slideshow presentation (see staff report and recording for detailed presentation).

00:39:53 On a motion by Member Bond, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, 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 the Land Development Code, except where relief is requested, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the 2nd story addition will encroach the same distance as the existing structure and will be built with material that will be in character with the existing residence and surrounding residential neighborhood, and

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BUSINESS SESSION

CASE NUMBER 22-VARIANCE-0079

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 addition will not encroach into the side yard setback any further than the existing structure; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 22-VARIANCE-0079 does hereby **APPROVE** Variance from the Land Development Code Table 5.2.2 to allow a principal structure to encroach into the side yard setback (**Side Yard Setback Requirement 15 ft., Request 13.68 ft., Variance 2 ft.; Side Yard Setback Total Requirement 45 ft., Request 41.31 ft., Variance 3.69 ft.**).

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0134

Request:	Variance to allow a deck to encroach into the side yard and front yard setbacks
Project Name:	Hoertz Avenue Variance
Location:	1314 Hoertz Avenue
Owner/Applicant:	Katrina Miller
Representative:	Cliff Ashburner, Dinsmore & Shohl, LLP
Jurisdiction:	Louisville Metro
Council District:	15 – Kevin Triplett
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:

00:41:43 Heather Pollock requested to continue the case to a date certain because she has a new site plan and would like to give Transportation Planning time to review that plan. Ms. Pollock stated staff is requesting a date in August (see staff report and recording for detailed presentation).

00:43:04 On a motion by Member Leanhart, seconded by Member Ford, the following resolution, based upon the testimony heard today, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 21-VARIANCE-0134 to the August 15, 2022 Board of Zoning Adjustment meeting.

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0134

The vote was as follows:

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

00:44:02 Chair Howard called Item #9 on today's agenda at this time. Please see Page 21.

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0027

Request:	Variance to allow a deck to encroach into the side yard setback
Project Name:	Forrest Street Variance
Location:	1000 Forrest Street
Owner/Applicant:	Jeremy Collins and Madison Heine
Jurisdiction:	Louisville Metro
Council District:	15 – Kevin Triplett
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:

00:47:06 Heather Pollock presented the case and showed a slideshow presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jeremy Collins, 1000 Forrest Street, Louisville, KY 40217

Summary of testimony of those in favor:

00:49:48 Jeremy Collins 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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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0027

00:54:21 Heather Pollock stated that Ms. Smith, the neighboring owner, called her this morning and was advised she would need to call in to speak on this case in order for her comments to be on record (see recording for detailed presentation).

00:55:41 Board Members' deliberation

00:57:03 On a motion by Member Bond, seconded by Vice Chair 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 structure must be constructed to comply with all applicable building codes and the Land Development Code, except where relief is requested, and

WHEREAS, the Board further finds that the deck does not alter the essential character of the general vicinity as it is built with material that is 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 the existing rear entrance to the home is oriented towards the side property line and the deck accommodates this; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 22-VARIANCE-0027 does hereby **APPROVE** Variance from the Land Development Code Table 5.2.2 to allow a deck to encroach into the side yard setback (**Side Yard Setback 3 ft., Request 1 ft., Variance 2 ft.**).

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0027

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0051

Request:	Variance to allow a structure to exceed the maximum allowed setback in the Suburban Marketplace Corridor form
Project Name:	Hurstbourne Pointe
Location:	8308 Watterson Trail
Owner:	Hurstbourne Point LLC
Applicant:	Hurstbourne Point LLC
Representative:	Milestone Design Group
Jurisdiction:	Louisville Metro
Council District:	26 – Brent Ackerson
Case Manager:	Dante St. Germain, AICP, Planner II

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

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

Agency testimony:

00:58:46 Dante St. Germain presented the case and showed a slideshow presentation. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Mark Madison, 108 Daventry Lane, Louisville, KY 40223

Summary of testimony of those in favor:

01:04:47 Mark Madison spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke neither for nor against the request:

Mark Shah, 8323 Stillmeadow Dr., Louisville, KY

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0051

Summary of testimony of those neither for nor against:

01:07:15 Mark Shah spoke neither for nor against the request. Mr. Shah stated several of the neighbors are requesting the applicant put up some type of fence between the wooded area and their property. Mr. Shah stated they also request that the lighting be adequate, but not super bright. Mr. Shah stated his third concern is where the school bus will pick up children and drop them off. Chair Howard advised Mr. Shah that it may be possible for him to discuss this with the applicant's representative, but the Board cannot take action on what he is asking. Mr. Shah stated he understands and will continue to be in touch with the owner (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

REBUTTAL:

01:10:36 Mark Madison spoke in rebuttal. Mr. Madison stated he will forward Mr. Shah's information to the owner and he can discuss with him directly any neighbors' concerns. Mr. Madison stated they have to comply with the Landscape Ordinance which talks about screening (see recording for detailed presentation).

01:11:30 Ms. St. Germain stated there is a section of the Land Development Code that addresses lighting, and any lighting would have to comply with that (see recording for detailed presentation).

01:12:14 Board Members' deliberation

01:12:57 On a motion by Member Bond, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0051

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the tree canopy between the structure and Stillmeadow Drive will be preserved, 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 structure is set back in order to allow the preservation of Woodland Preservation Area; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 22-VARIANCE-0051 does hereby **APPROVE** Variance from Section 5.3.2.C.2.a to allow a principal structure to exceed the maximum allowed front yard setback along Stillmeadow Drive (**Front Yard Setback Requirement 275 ft., Request 367.1 ft., Variance 92.1 ft.**).

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0059

Request:	Variance to Exceed the maximum front yard setback
Project Name:	Key Family Dentistry
Location:	6305 E Manslick Rd
Owner:	Parkway Professionals LLC
Applicant:	Parkway Professionals LLC
Representative:	QK4
Jurisdiction:	Louisville Metro
Council District:	23 – James Peden
Case Manager:	Jay Lockett, AICP, Planner II

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

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

Agency testimony:

01:14:33 Jay Lockett presented the case and showed a slideshow presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Ashley Bartley, QK4, 1046 E. Chestnut Street, Louisville, KY 40204

Summary of testimony of those in favor:

01:17:34 Ashley Bartley spoke in favor of the request and showed a slideshow presentation. Ms. Bartley 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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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0059

01:25:03 Board Members' deliberation

01:26:13 On a motion by Member Leanhart, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect the public health, safety or welfare because the required screening and planting required in the buffer will be provided on the site, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity because the plantings and screening requirements within the buffer and along the property line shared with the existing residential lots will be provided, and developments in the area have a variety of setbacks, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because plantings and screening will be provided around the subject site. Louisville Metro Public Works and the Kentucky Transportation Cabinet have approved the plan and will ensure safe circulation around and within the site, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the additional setback allows the development to provide the full parkway buffer and necessary parking for the proposed use; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 22-VARIANCE-0059 does hereby **APPROVE** Variance from Land Development Code Section 5.3.1 and Table 5.3.1 to exceed the maximum 95-foot setback by up to 7 feet as shown on the development plan, **SUBJECT** to the following Condition of Approval.

Condition of Approval:

1. The 6 ft. fence on the North side shall be increased to 8 ft. in height.

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0059

The vote was as follows:

Yes: Members Bond, Leanhart, Ford, Vice Chair Buttorff, and Chair Howard

Absent: Member Vozos

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0064

Request:	Variance to allow a fence to exceed the maximum height in the side yard and rear yard setbacks
Project Name:	Mike's Carwash Fence Variance
Location:	2962 Breckenridge Lane
Owner/Applicant:	Mike's No 58, LLC
Representative:	Eddie Krieger, Mike's Carwash
Jurisdiction:	Louisville Metro
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:

01:28:03 Heather Pollock presented the case and showed a slideshow presentation. Ms. Pollock responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:
Eddie Krieger, 100 N. East Dr., Loveland, OH 45140

Summary of testimony of those in favor:

01:33:00 Eddie Krieger 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:
Brian Abell, 3317 Hikes Lane, Louisville, KY 40220

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0064

Erin Kirby, 4024 Midland Ave., Louisville, KY 40220
Amanda Board, 4026 Midland Ave., Louisville, KY 40220
Janice Burch, 4026 Midland Ave., Louisville, KY 40220

Summary of testimony of those in opposition:

01:46:13 Brian Abell stated he had sent a letter of support and wanted to make sure it was entered into the record. Mr. Abell stated in his view, the owner is not in compliance with the current landscaping that was approved by Metro. Mr. Abell stated a ten foot fence would solve the problem with light and noise. Mr. Abell responded to questions from the Board Members (see recording for detailed presentation).

01:54:45 Erin Kirby spoke in opposition of the request. Ms. Kirby stated she supports the fence, but she does not believe ten foot is tall enough because the property is higher. Ms. Kirby stated when Frisch's was there, they had their fence on top of the wall, and the new owner is placing the fence on the property line. Ms. Kirby stated a ten foot fence would not provide the neighbors any privacy. Ms. Kirby responded to questions from the Board Members (see recording for detailed presentation).

01:58:46 Amanda Board spoke in opposition of the request. Ms. Board stated she has the same concern. Ms. Board stated she is directly behind Mike's car wash, and the headlights of every car shines into their kitchen and the back bedroom. Ms. Board stated there is a problem with homeless people, trash, and noise. Ms. Board stated she is for a fence, but instead of being on the ground it needs to be on their property that is higher. Ms. Board responded to questions from the Board Members (see recording for detailed presentation).

02:05:29 Janice Burch spoke in opposition of the request. Ms. Burch stated there is no privacy whatsoever. Ms. Burch stated the two neighbors next door to her built a fence, which is still not tall enough and she believes that is an eight foot fence (see recording for detailed presentation).

REBUTTAL:

02:07:23 Eddie Krieger spoke in rebuttal. Mr. Krieger stated the fence is only on the side of Mr. Abell. Mr. Krieger stated the way that everything was designed obviously was approved and they've had numerous zoning cases. Mr. Krieger stated

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0064

he gets the concerns with the height, but the way the vacuums and light poles are installed he does not have the room to install a fence. Mr. Krieger stated they have to turn the vacuums off when they close, and he believes the zoning requirements are that they turn off an hour after they close, and one hour before they open and that is programmed. Mr. Krieger stated they ran into a lot of the homeless, and they work with one of the neighboring communities to help them out. Mr. Krieger responded to questions from the Board Members (see recording for detailed presentation).

02:15:30 Board Members' deliberation

02:19:46 On a motion by Member Leanhart, seconded by Vice Chair Buttorff, the following resolution, based upon the testimony heard today, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 22-VARIANCE-0064 to the August 15, 2022 Board of Zoning Adjustment meeting to allow Sherie' Long, Landscape Architect (Planning & Design Services) an opportunity to submit comments to the Board Members.

The vote was as follows:

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

02:20:57 Chair Howard called Item #11 on today's agenda at this time. Please see pages 24-27.

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PUBLIC HEARING

CASE NUMBER 22-CAT3-0006

Request:	A Category 3 Development Plan with 2 Variances and 2 Waivers
Project Name:	Beecher Terrace Phase IV
Location:	1200 W Jefferson Street
Owner/Applicant:	Louisville Metro Housing Authority / Civil Design, INC.
Jurisdiction:	Louisville Metro
Council District:	4 – Jecorey Arthur
Case Manager:	Molly Clark, 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:

00:44:46 Molly Clark stated the applicant has made some changes to the plan and they do not know when they will have new plans done, so they want to continue to a date uncertain (see staff report and recording for detailed presentation).

00:45:43 On a motion by Member Leanhart, seconded by Vice Chair Buttorff, the following resolution, based upon the testimony heard today, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 22-CAT3-0006 to a Date Uncertain.

The vote was as follows:

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

00:46:52 Chair Howard called Item #5 at this time. Please see Pages 9-11.

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PUBLIC HEARING

CASE NUMBER 22-NONCONFORM-0013

Request:	Change in nonconforming use from a package liquor store (no on-site alcohol consumption allowed) to an office, professional and business.
Project Name:	701 E Kentucky St Change in Nonconformance
Location:	701 E. Kentucky Street
Owner:	E Kentucky Property MDR, LLC
Applicant:	Julie A. Metzinger
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:

03:17:56 Zach Schwager presented the case and showed a slideshow presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Julie Metzinger, 1000 Swan Street, Suite 4, Louisville, KY 40204
Natalie Officer, 3600 Halls Hill, Crestwood, KY 40014

Summary of testimony of those in favor:

03:20:28 Julie Metzinger spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

03:22:21 Natalie Officer spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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PUBLIC HEARING

CASE NUMBER 22-NONCONFORM-0013

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

03:24:19 Board Members' deliberation

03:25:06 On a motion by Vice Chair Buttorff, 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 new nonconforming use is in the same or more restrictive classification of the first nonconforming use, and

WHEREAS, the Board further finds that the new nonconforming use is no more odious or offensive to surrounding properties than the first nonconforming use; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 22-NONCONFORM-0013 does hereby **APPROVE** Change in nonconforming use from a package liquor store (no on-site alcohol consumption allowed) to an office, professional and business.

The vote was as follows:

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

03:26:16 Chair Howard called Item #12 on today's agenda at this time. Please see pages 28-32.

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PUBLIC HEARING

CASE NUMBER 22-CUP-0028

Request:	Conditional Use Permit for a proposed commercial kennel
Project Name:	Pet Suites Commercial Kennel
Location:	9017 Taylorsville Road
Owner:	HMA Property Holdings, LLC
Applicant:	Keith Demchinski – Beta Equity Investments, LLC
Representative:	Jon Baker – Wyatt, Tarrant & Combs, LLP
Jurisdiction:	Louisville Metro
Council District:	11 – Kevin Kramer
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:

02:21:36 Zach Schwager presented the case and showed a slideshow presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jon Baker, 400 W. Market St., Suite 2000, Louisville, KY 40202
Tony Sola, P.O. Box 41182, Mesa, AZ 85274

Summary of testimony of those in favor:

02:26:24 Jon Baker spoke in favor of the request and showed a slideshow presentation. Mr. Baker responded to questions from the Board Members (see recording for detailed presentation).

02:47:15 Tony Sola responded to questions from the Board Members regarding noise level studies (see recording for detailed presentation).

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PUBLIC HEARING

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02:54:52 Mr. Baker responded to questions from the Board Members (see recording for detailed presentation).

The following spoke neither for nor against the request:

Scott Harrington, Legislative Assistant to Councilman Kevin Kramer, 601 W. Jefferson Street, Louisville, KY 40202

Summary of testimony of those neither for nor against:

02:56:53 Scott Harrington spoke neither for nor against the request. Mr. Harrington stated the primary concern is the enforcement of the Louisville Metro Noise Ordinance. Mr. Harrington stated this plan has changed considerably since DRC regarding sound abatement measures (see recording for detailed presentation).

The following spoke in opposition of the request:

David Poynter, 2117 Canterbrook Drive, Louisville, KY 40299

Summary of testimony of those in opposition:

03:01:27 David Poynter spoke in opposition of the request. Mr. Poynter stated their biggest concern is the noise. Mr. Poynter stated if you are stopped by the one at the intersection of Bardstown Road and Seatonville Road, you'll generally hear dogs continuously barking. Mr. Poynter stated this facility is going to be right there practically in the back yards of residents on Canterbrook Drive. Mr. Poynter stated concern over increased U-turns to get into the facility (see recording for detailed presentation).

REBUTTAL:

03:07:21 Jon Baker spoke in rebuttal. Mr. Baker stated because of Mr. Poynter the client has studied this location more intensely than most locations. Mr. Baker stated when most people come home from work, the dogs will be indoors by six. Mr. Baker stated there are employees working the outdoor play areas, and if a dog is barking continuously, they take that dog inside. Mr. Baker responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 22-CUP-0028

03:09:32 Board Members' deliberation

03:13:52 On a motion by Member Leanhart, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the Comprehensive Plan in that it is using an existing structure and does not create significant additional burdens on public infrastructure, and

WHEREAS, the Board further finds that the proposal is compatible with surrounding land uses, and

WHEREAS, the Board further finds that public facilities are adequate to serve the site, and

WHEREAS, the Board further finds that:

Commercial Kennels may be located in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, C-1, C-2, C- M, M-1, M-2, and M-3 Zoning Districts where such use is compatible with surrounding land uses upon the granting of a Conditional Use Permit when developed in compliance with the listed requirements.

- A. Facilities Enclosed - All facilities, except parking, shall be within a totally enclosed building except where it can be demonstrated that a nuisance is not created thereby. **The applicant will need relief from this requirement. Staff is supportive of the outdoor component.**
- B. Signs - Except in districts where signs are allowed, there shall be no more than one non- illuminated sign not to exceed 12 square feet in area and not to exceed 6 feet in height. **This requirement will be met.**
- C. Fences - A continuous fence at least 6 feet high shall be erected around the portion of the site used for the kennel operation. **This requirement will be met.**
- D. Screening – Any outdoor animal facilities shall be screened from view. **This requirement will be met.**

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- E. Noise - The design of the structures shall include features that acoustically shield any animal noises from surrounding property. **This requirement will be met.**
- F. The applicant shall demonstrate adequate provisions to prevent surface water quality impacts due to animal wastes. **This requirement shall be met;** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 22-CUP-0028 does hereby **APPROVE** Conditional Use Permit for a commercial kennel, with **RELIEF** from Requirement A based upon the applicant's justification, and **SUBJECT** to the following Conditions of Approval.

Conditions of Approval:

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

The vote was as follows:

Yes: Members Bond, Leanhart, Ford, Vice Chair Buttorff, and Chair Howard

Absent: Member Vozos

03:17:00 Meeting was recessed.

03:17:20 Meeting was reconvened.

03:17:25 Chair Howard called Item #10 on today's agenda at this time. Please see pages 22-23.

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PUBLIC HEARING

CASE NUMBER 22-CUP-0057

Request:	Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host
Project Name:	McGill Drive Short Term Rental
Location:	4410 McGill Drive
Owner/Applicant:	Adam & Dionna Hicks
Jurisdiction:	Louisville Metro
Council District:	15 – Kevin Triplett
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:

03:26:41 Heather Pollock presented the case and showed a slideshow presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Michael Marks, 2933 Bowman Ave., Louisville, KY 40205
Adam Hicks, 9606 Dawson Hill Road, Louisville, KY 40299

Summary of testimony of those in favor:

03:29:28 Michael Marks spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

03:31:55 Adam Hicks responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 22-CUP-0057

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

03:34:13 Board Members' deliberation

03:35:01 On a motion by Member Bond, seconded by Member Ford, 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

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excess of two acres in which case the occupancy limit shall be two times the 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. **The applicant states that there are 2 off-street parking spaces located on site. The LDC does credit the**

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property with one on-street parking space and there does appear to be available on-street parking in the area.

- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances. **The applicant has been informed of this requirement.**
- 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 22-CUP-0057 does hereby **APPROVE** Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in an R-5 zoning district and

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Traditional Neighborhood Form District, **SUBJECT** to the following Condition of Approval.

Condition of Approval:

1. The conditional use permit for this short term rental approval shall allow up to 3 bedrooms (with a maximum of 8 guests at any one time). Prior to use, bedrooms must meet all occupancy requirements set forth in Louisville Metro Code of Ordinances. A modification of the conditional use permit shall be required to allow additional bedrooms.

The vote was as follows:

Yes: Members Bond, Leanhart, Ford, Vice Chair Buttorff, and Chair Howard

Absent: Member Vozos

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CASE NUMBER 21-MCUP-0007

Request:	Modified Conditional Use Permit to allow for additions to the principal existing structure and 45 new parking spaces
Project Name:	Portland Christian School
Location:	8507 Westport Road
Owner:	Portland Christian School System
Applicant:	Mark Madison – Milestone Design Group, Inc.
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:

03:37:09 Zach Schwager presented the case and showed a slideshow 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:

Mark Madison, 108 Daventry Lane, Suite 300, Louisville, KY 40223

Summary of testimony of those in favor:

03:42:40 Mark Madison spoke in favor of the request and showed a slideshow presentation. Mr. Madison responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 21-MCUP-0007

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

03:51:16 Board Members' deliberation

03:52:23 On a motion by Member Leanhart, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with Comprehensive Plan policies, and

WHEREAS, the Board further finds that the proposal is compatible with surrounding land uses, 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:

4.2.65 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 will need relief from this requirement as the proposed east side addition and parking will be within 30 ft. of the existing property lines. Staff is supportive of this request because the conditions are existing.**
- B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated. **Transportation Planning has preliminarily approved the plan.**

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- 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. **There is existing parking in front of the existing structure. The applicant will need relief from this requirement. Staff is supportive of this request because the conditions are existing.**
- D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99). **This item must be met.**
- 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 must determine whether hours of operation are appropriate for this use and location**

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 22-MCUP-0007 does hereby **APPROVE** Modified Conditional Use Permit to allow for additions to the principal existing structure and 45 new parking spaces, with **RELIEF** from Standard 4A and 4C because of existing conditions, 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 institutional use until further review and approval by the Board.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 22-APPEAL-0003

Request:	Appeal of an administrative decision regarding nonconforming rights
Project Name:	Greenwood Avenue Appeal
Location:	2210 Greenwood Avenue
Owner/Appellant:	Legacy Property Solutions, LLC/Fred Newman
Jurisdiction:	Louisville Metro
Council District:	4 – Jecorey Arthur
Case Manager:	Chris French, AICP, Planning & 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:

03:54:48 Chris French presented the case and showed a slideshow presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the appeal:

Fred Newman, P.O. Box 986, Shelbyville, KY 40066

Summary of testimony of those in favor:

04:00:15 Fred Newman spoke in favor of the appeal and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the appeal:

No one spoke.

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PUBLIC HEARING

CASE NUMBER 22-APPEAL-0003

04:18:40 Board Members' deliberation

04:18:42 On a motion by Member Bond, seconded by Vice Chair Buttorff, the following resolution, based upon the testimony heard today, particularly regarding the interior of the structure, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that a duplex use did exist on the lot in 1971, and

WHEREAS, the Board further finds that the use of the property continued to the present day; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 22-APPEAL-0003 does hereby **OVERTURN** Staff's decision and **APPROVE** Appeal of an administrative decision regarding nonconforming rights for a duplex in an R-5 zoning district.

The vote was as follows:


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

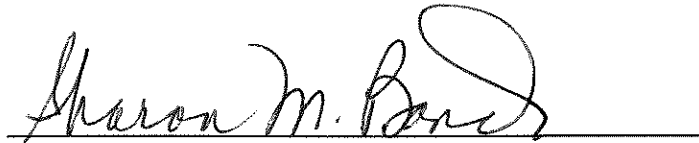
No: Member Leanhart

Absent: Member Vozos

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The meeting adjourned at approximately 5:20 p.m.


Chair


Secretary