

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

September 25, 2023

A meeting of the Louisville Metro Board of Zoning Adjustment was held on Monday, September 25, 2023, at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky, and also via Webex.

Members Present:

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

Members Absent:

Yani Vozos

Staff Members Present:

Emily Liu, Director
Brian Davis, Assistant Director
Joel Dock, Planning & Design Supervisor
Joe Haberman, Planning & Design Manager
Laura Ferguson, Legal Counsel
Mary Willis, Management Assistant
Kat Groskreutz, Senior Planner
Amy Brooks, Planner I
Molly Clark, Planner II
Jermey Chesler, Planner I
Heather Pollack, Planner I

The following cases were heard:

BOARD OF ZONING ADJUSTMENT MINUTES

September 25, 2023

September 11, 2023, Board of Zoning Adjustment Meeting Minutes

00:04:13 On a motion by Member Howard, seconded by Member Horton, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the September 11, 2023, Board of Zoning Adjustment meeting.

The vote was as follows:

YES: Members Leanhart, Horton, Howard, Vozos, and Chair Bond

ABSTAIN: None

ABSENT: Member Ford and Vice Chair Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023

BUSINESS SESSION

Case No. 23-MCUP-0009

Request:	Modified Conditional Use Permit for a Commercial Kennel parking expansion
Project Name:	Golden Retriever Rescue & Adoption
Location:	7924 Vine Crest Avenue
Owner:	Golden Retriever Rescue &
Applicant:	Heritage Engineering
Representative:	Heritage Engineering
Jurisdiction:	City of Lyndon
Council District:	7 – Paula McCraney
Case Manager:	Molly Clark, 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.

00:05:11 Board Members reviewed the material and discussed the case (see recording for details)

00:05:23 Board Members' discussion

Modified Conditional Use Permit for a commercial kennel expansion (LDC 4.2.17)

00:06:25 On a motion by Member Horton, seconded by Member Howard, the following resolution, was adopted:

WHEREAS, the proposal meets all applicable policies of the Comprehensive Plan, and

WHEREAS, the proposed expansion of the parking spaces remains compatible with surrounding land uses and the general character of the area, and

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

BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023

BUSINESS SESSION

Case No. 23-MCUP-0009

WHEREAS, the existing commercial kennel is compatible with the general character of the surrounding neighborhood in terms of scale, intensity, traffic, noise, drainage and appearance. The proposed surface parking expansion will still follow all required landscaping buffers found in Chapter 10 of the Land Development Code. The expansion in the parking lot will allow for adequate parking for the employees of this facility; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Modified Conditional Use Permit for a commercial kennel expansion (LDC 4.2.17) **SUBJECT** to the following 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 commercial kennel without further review and approval by the Board.

The vote was as follows:

YES: Members Leanhart, Horton, Howard, Ford, Buttorff and Chair Bond

ABSENT: Member Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023

BUSINESS SESSION

Case No. 23-MCUP-0010

Request: Modified Conditional Use Permit for a private institutional use
Project Name: Kentucky Country Day School
Location: 4100 Springdale Rd
Owner: Adam Beckum, CFO, Kentucky Country Day School
Applicant: Land Design & Development, Inc
Representative: Land Design & Development, Inc
Jurisdiction: Louisville Metro
Council District: 16 - Scott Reed
Case Manager: Amy Brooks, 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.

00:08:09 Board Members reviewed the material and discussed the case (see recording for details)

00:08:44 Board Members' deliberation

Modified Conditional Use Permit for private institutional use (LDC 4.2.65)

00:08:51 On a motion by Member Howard, seconded by Vice Chair Buttorff, the following resolution, was adopted:

WHEREAS, the proposal is consistent with applicable policies of the Comprehensive Plan, Plan 2040, and

WHEREAS, the proposal is compatible with surrounding land uses and the general character of the area including factors such as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting and appearance. The site is located in an area that is surrounded by commercial and residentially zoned properties. To mitigate the impact

BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023

BUSINESS SESSION

Case No. 23-MCUP-0010

on the neighborhood, the school has provided extensive plantings along its property perimeters, and

WHEREAS, all necessary on-site and off-site public facilities such as transportation, sanitation, water, sewer, drainage, emergency services, education and recreation adequate to serve the proposed use are available or will be provided, and

WHEREAS, the proposed buildings and addition are located more than 30 feet from any property line where Kentucky Country School abuts residential. Moreover, the school has provided sufficient landscape buffers areas and screening that will minimize the impact of the proposal on the residential properties to the north and west of the subject site. The proposed usage is not generating any new parking requirements, and the use will be mitigated for any adverse impact on the surrounding residents because sporting events that draw crowds happen outside of the normal school day when traffic is at its peak. The proposal would not appear to create any impacts beyond what is typical for schools and other private institutions, such as pick-up/drop-off or evening activities; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Modified Conditional Use Permit for private institutional use (LDC 4.2.65)

The vote was as follows:

YES: Members Leanhart, Horton, Howard, Ford, Buttorff and Chair Bond

ABSENT: Member Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023

BUSINESS SESSION

Case No. 23-CUP-0174

Request: Cont'd from 8/21/23 Public Hearing. Conditional Use Permit for childcare center in a residential zone allowing for a maximum of 12 children

Project Name: Busy Kidz Childcare

Location: 7007 Norlynn Drive

Owner: Miriam Archie

Applicant: Miriam Archie

Representative: Miriam Archie

Jurisdiction: Louisville Metro

Council District: 23 – Jeff Hudson

Case Manager: Joel P. Dock, AICP, Planning 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.

00:09:54 Board Members reviewed the material and discussed the case (see recording for details)

00:13:47 Board Members' deliberation.

Conditional Use Permit (CUP) for Child Care Center (LDC 4.2.19)

00:15:08 On a motion by Member Leanhart, seconded by Member Buttorff, the following resolution, based on the meeting that was held August 21st, the evidence and testimony heard today, was adopted:

WHEREAS, the proposal is compatible with the area and form district as no changes are proposed to the residence which changes the exterior appearance.

WHEREAS, necessary public facilities to accommodate the proposed child care center are available, including transportation, sanitation, water, sewer, drainage, emergency services, education and recreation, and

**BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023**

BUSINESS SESSION

Case No. 23-CUP-0174

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the requested Conditional Use Permit (CUP) for Child Care Center (LDC 4.2.19)

The vote was as follows:

YES: Members Leanhart, Horton, Ford and Buttorff

NO: Member Howard and Chair Bond

ABSENT: Member Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0116

Request: **TO BE CONTINUED TO A FUTURE MEETING**
Variance to allow a freestanding sign to exceed the maximum height permitted on a Parkway.

Project Name: Church Freestanding Sign Variance
Location: 7709 Bardstown Road
Owner: Cedar Creek Baptist Church
Applicant: Mike Borland, Cedar Creek Baptist Church
Representative: Mike Borland, Cedar Creek Baptist Church
Jurisdiction: Louisville Metro
Council District: 22 – Robin Engel
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:

00:19:07 Heather Pollock requested that the case be continued to October 16 due to applicant needing to add an additional variance (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

None

The following spoke in opposition to the request:

None

00:19:33 Board Members' discussion

00:19:35 On a motion by Member Howard, seconded by Member Ford, the following resolution, was adopted:

BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0116

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** the Variance to allow a freestanding sign to exceed the maximum height permitted on a parkway to October 16.

The vote was as follows:

YES: Members Leanhart, Horton, Howard, Ford, Buttorff and Chair Bond

ABSENT: Member Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0117

Request:	Variance to allow a structure to exceed the maximum height
Project Name:	Juniper Beach Road Variance
Location:	5455 Juniper Beach Road
Owner:	Timothy & Pamela Brown
Applicant:	Timothy & Pamela Brown
Representative:	Timothy & Pamela Brown
Jurisdiction:	Louisville Metro
Council District:	16 – Scott Reed
Case Manager:	Jeremy Chesler, 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:

00:20:44 Jeremy Chesler presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

Timothy Brown, 5455 Juniper Beach Rd., Prospect, KY 40059

Summary of testimony of those in support:

00:24:32 Timothy Brown spoke in support of the request and responded to questions from Board Members (see recording for detailed presentation)

The following spoke in opposition of the request:

None

00:26:11 Board Members' deliberation

BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0117

Variance from Land Development Code, Section 5.3.1, Table 5.3.1 to allow a structure to exceed the maximum height of 35'

00:26:17 On a motion by Member Leanhart, seconded by Member Buttorff, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the requested variances will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all applicable building codes and will not impede the safe movement of pedestrians or motorists, and

WHEREAS, the proposed building addition will not alter the essential, visual character of the general vicinity as the proposed structure will be consistent with other structures built on the street in recent years. Due to the modern floodplain regulations, the three properties to the North have all been built to a similar height, and

WHEREAS, the requested variances will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes. There are no homes located across Juniper Beach Road and the property is on the banks of the Ohio River so no properties will have any significant change to their view, and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations as the applicant is seeking relief due to the strict floodplain regulations. Nearby properties have been granted the same relief; therefore, this particular request is within reason. All other relevant residential site design standards have been satisfied, and

WHEREAS, the requested variance does arise from special circumstances which do not generally apply to land in the same zone as the property sits within the floodplain and as such the height is partially dictated by the strict floodplain regulations. Several of the properties in the general vicinity that share the special circumstances have approved variances, and

WHEREAS, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the floodplain regulations are more rigid and cannot be altered. Options for designing and building a residential structure to comply with both the floodplain regulations and the relevant standards in the LDC would be limiting, and

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the

BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0117

applicant has not yet started construction and is requesting appropriate relief; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from Land Development Code, Section 5.3.1, Table 5.3.1 to allow a structure to exceed the maximum height of 35' (**Requirement 35ft, Request 44ft, Variance 9ft**)

The vote was as follows:

YES: Members Leanhart, Horton, Howard, Ford, Buttorff and Chair Bond

ABSENT: Member Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0118

Request: Variance to allow a structure to encroach into side yard setback
Project Name: South Preston Street Variance
Location: 1331 S. Preston Street
Owner: Joy Collins
Applicant: Joy Collins
Representative: Joy Collins
Jurisdiction: Louisville Metro
Council District: 6 – Phillip Baker
Case Manager: Jeremy Chesler, 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:

00:27:29 Jerney Chesler presented the case and showed a Power Point presentation. Chesler responded to questions from the Board members (see staff report and recording for detailed presentation.)

00:33:17 Joel Dock responded to Board Member Howards question.

The following spoke in support of the request:

Joy Collins, 1333 S Preston St., Louisville, KY 40208

Summary of testimony of those in support:

00:35:08 Joy Collins spoke in support of the request and responded to questions from Board Members (see recording for detailed presentation)

The following spoke in opposition to the request:

BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0118

None

00:37:31 Board Members' deliberation

Variance from Land Development Code, Section 5.2.2.C, Table 5.2.2 to reduce the side yard setback from 3' to 0'

Variance from Land Development Code, Section 5.2.2.C, Table 5.2.2 reduce the side yard setback from 3' to 2'

00:37:31 On a motion by Member Buttorff, seconded by Member Leanhart, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the requested variances will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all applicable building codes and will not impede the safe movement of pedestrians or motorists, and

WHEREAS, the proposed building addition will not alter the essential, visual character of the general vicinity as the addition will be built on the footprint of the existing structure and will not increase the current encroachment into the side yard setback. There are several two-story residential structures in the immediate vicinity, and

WHEREAS, the requested variances will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes. The property owner also owns the adjoining property at 1333 S Preston Street, where the 0' setback will be located so there is less concern about needing to cross onto someone else's property during construction, and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations as there are other homes within the surrounding blocks that contain second story additions that encroach into the current required side yard setbacks. The proposed addition will not increase the amount of encroachment that exists currently, and

WHEREAS, the requested variances arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the existing structure encroaches into the required side yard setbacks. There are other homes in the general

BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0118

vicinity that have been granted a variance for the construction of a second story addition within the footprint of an existing structure, and

WHEREAS, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the applicant would not be able to use the existing structure as a foundation for the second story addition, and

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant has not yet started construction and is requesting appropriate relief; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance **(1)** from Land Development Code, Section 5.2.2.C, Table 5.2.2 to reduce the side yard setback from 3' to 0' (**Requirement 5ft., Request 0ft., Variance 3ft.**) and Variance **(2)** from Land Development Code, Section 5.2.2.C, Table 5.2.2 reduce the side yard setback from 3' to 2' (**Requirement 5ft., Request 2ft., Variance 3ft.**)

The vote was as follows:

YES: Members Leanhart, Horton, Howard, Ford, Buttorff and Chair Bond

ABSENT: Member Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0026

Request: Request for a variance and waivers associated with a Category 3 development plan for a renovation of an existing structure, new 7-story hotel addition and front yard pool.

Project Name: Joe Lay Hotel

Location: 615 and 625 E Market Street

Owner: 615 E Market LLC

Applicant: Cliff Ashburner, Dinsmore and Shohl

Jurisdiction: Louisville Metro

Council District: 4 – Jecorey Arthur

Case Manager: Kat Groskreutz, Senior Planner – Urban Design

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:

00:38:26 Joe Haberman presented the case and showed a Power Point presentation. Haberman discussed the proposal with respect to the recent decision of the NULU Review Overlay District public meeting held on September 20, 2023. Haberman responded to questions from the Board members (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

Cliff Ashburner, Dinsmore and Shohl, 101 S 5th St., Louisville, KY 40202

Michael Kitchen, 833 W Washington Blvd, Chicago, IL 60607

Summary of testimony of those in support:

BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0026

00:53:46 Cliff Ashburner spoke in support of the request and presented a PowerPoint presentation. Ashburner responded to questions from Board Members (see recording for detailed presentation)

01:11:11 Joe Haberman responded to Board Member Howards questions (see recording for details)

01:16:08 Joel Dock responded to Member Howards question (see recording for details)

01:16:57 Cliff Ashburner continued answering Board Members questions (see recording for details)

01:26:15 Michael Kitchen spoke in support of the request. Kitchen stated that Louisville has been evolving especially in the NULU area and feels that the Joe Ley Hotel will help boost the area (see recording for a detailed presentation)

The following spoke in opposition of the request:
None

01:29:55 Board Members' deliberation.

Variance from Land Development Code (LDC), Section 5.2.1.C.3 to exceed the 15' maximum building setback and be setback a maximum of 66'

01:36:39 On a motion by Member Buttorff, seconded by Member Howard, the following resolution, based on the testimony and evidence heard today and the conditional approval of the project by the NULU Review Overlay District committee, was adopted:

WHEREAS, the Board finds that in light of the NULU Review Overlay District Committee's approval of the project on condition that the final design of the amenity area located along the public right-of-way, including the proposed pool, receive final approval by the Committee satisfies the standard of review for the requested variance; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from Land Development Code (LDC), Section 5.2.1.C.3 to

BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0026

exceed the 15' maximum building setback and be setback a maximum of 66' on the condition of maintaining the overlay approval that reflects the setback (**Requirement 15ft., Request 66ft., Variance 51ft.**)

The vote was as follows:

YES: Members Leanhart, Horton, Howard, Ford, Buttorff and Chair Bond
ABSENT: Member Vozos

Waiver from LDC Section 5.2.1.C.2 to not maintain a street wall of at least 3-stories in height

Waiver from LDC Section 5.5.1.B.1.a.ii to allow surface parking to be located in front of and to the side of the principal structure and to not be accessed at the rear of the property via the alley

01:38:07 On a motion by Member Howard, seconded by Member Horton, the following resolution, based on the testimony and evidence heard today and the conditional approval of the project by the NULU Review Overlay District committee, was adopted:

WHEREAS, the Board finds that in light of the NULU Review Overlay District Committee's approval of the project on condition that the final design of the amenity area located along the public right-of-way, including the proposed pool, receive final approval by the Committee satisfies the standard of review for the requested variance; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested **Waiver (1)** from LDC Section 5.2.1.C.2 to not maintain a street wall of at least 3-stories in height, **Waiver (2)** from LDC Section 5.5.1.B.1.a.ii to allow surface parking to be located in front of and to the side of the principal structure and to not be accessed at the rear of the property via the alley.

The vote was as follows:

YES: Members Leanhart, Horton, Howard, Ford, Buttorff and Chair Bond
ABSENT: Member Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0026

Waiver from LDC Section 5.5.5.B.1 to allow 3 accessory structures to be located in front of the principal structure

01:39:47 On a motion by Member Howard, seconded by Member Leanhart, the following resolution, based on the testimony and evidence heard today and the conditional approval of the project by the NULU Review Overlay District committee, was adopted:

WHEREAS, the Board finds that in light of the NULU Review Overlay District Committee's approval of the project on condition that the final design of the amenity area located along the public right-of-way, including the proposed pool, receive final approval by the Committee satisfies the standard of review for the requested variance; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Waiver from LDC Section 5.5.5.B.1 to allow 3 accessory structures to be located in front of the principal structure **ON CONDITION** that the project receive final design approval from the NULU Review Overlay District Committee.

The vote was as follows:

YES: Members Leanhart, Horton, Howard, Ford, Buttorff and Chair Bond
ABSENT: Member Vozos

Category 3 Development Plan

01:41:06 On a motion by Member Howard, seconded by Member Ford, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Category 3 Development Plan

The vote was as follows:

YES: Members Leanhart, Horton, Howard, Ford, Buttorff and Chair Bond

**BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023**

PUBLIC HEARING

Case No. 23-VARIANCE-0026

ABSENT: Member Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023

PUBLIC HEARING

Case No. 23-CUP-0238

Request: Conditional Use Permit for a Commercial Kennel in R-4 with a Variance to exceed the front yard setback

Project Name: The Pet Station Country Club

Location: 14310 & 14314 Old Henry Road

Owner: John & Cathy Wilhoit
Brent & Cindy Phillips

Applicant: Wyatt, Tarrant & Combs, LLP
Heritage Engineering
The Pet Station Holdings, LLC

Representative: Wyatt, Tarrant & Combs, LLP
Heritage Engineering
The Pet Station Holdings, LLC.

Jurisdiction: Louisville Metro

Council District: 19 – Anthony Piagentini

Case Manager: Molly Clark, 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:

01:42:20 Molly Clark presented the case and showed a Power Point presentation. Clark responded to questions from Board Members (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

Jon Baker, Wyatt Tarrant & Combs, 400 W. Market St. Suite 2000, Louisville, KY 40202

John Campbell, Heritage Engineering, 642 S 4th St. Suite 100, Louisville, KY 40202

Scott Burnley, 4800 Murphy Ln., Louisville, KY 40241

BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023

PUBLIC HEARING

Case No. 23-CUP-0238

Paul Blackburn, 8814 Featherbell Blvd, Prospect, KY 40059

Summary of testimony of those in support:

01:47:31 Jon Baker spoke in support of the request and presented a PowerPoint presentation. Baker responded to questions from Board Members (see recording for detailed presentation)

01:50:54 Paul Blackburn spoke in support of the request. Blackburn stated the facility boards dogs and cats. Blackburn also mentioned that the facility provides doggie daycare, dog grooming, and dog training. Blackburn responded to questions from Board Members (see detailed recording for presentation).

01:55:08 Jon Baker continued his presentation (see recording for details)

02:11:25 John Campbell spoke in support of the proposal. Campbell elaborated on the development and the site plan. Campbell stated that plantings would go along the buffer area (see recording for detailed presentation)

02:13:59 Scott Burnley spoke in support of the request and presented a PowerPoint presentation. Burnley elaborated on the sound and smell around the facility. Burnley stated that pets are never unattended and always with a handler (see recording for detailed presentation)

02:21:16 Joel Dock gave a recommendation on the facilities hours of operation (see recording for details)

02:22:49 Paul Blackburn continued answering Board Members question (see recording for details)

The following spoke in opposition to the request:

Barbara Isbell, 14000 Factory Ln, Louisville, KY 40245

Summary of testimony of those in opposition:

02:26:03 Barbara Isbell spoke in opposition to the request. Isbell stated that by placing a commercial property at the proposed location, it would take away the natural beauty of the area. Isbell also stated that the noise from the barking dogs would

BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023

PUBLIC HEARING

Case No. 23-CUP-0238

become a nuisance. Isbell responded to questions from Board Members (see recording for detailed presentation)

Rebuttal:

02:43:01 Jon Baker spoke in rebuttal. Baker clarified that the traffic is not an issue on Old Henry Road and the entrance of The Falls Development will line up with the entrance of the Pet Country Club. Baker responded to questions from Board Members (see recording for details)

02:46:58 Board Members' deliberation.

Variance from the Land Development Code, Section 5.3.1 to allow proposed structures to exceed the maximum 95-foot front yard setback by 20 feet (23-VARIANCE-0126)

02:48:30 On a motion by Member Buttorff, seconded by Member Ford, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS 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 it does not impede the safe movement of pedestrians or vehicles, and

WHEREAS, the proposed structures will look residential in nature and will be consistent with other structures in the immediate neighborhood, and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public as the increase setback does not impede the safe movement of pedestrians or vehicles, and

WHEREAS, the proposed setback would not be an unreasonable circumvention of the zoning regulations because the proposed setback allows the development enough room to provide the full parkway buffer while accommodating enough parking spaces for the proposal, and

WHEREAS, the requested variance does arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because this is a commercial use proposed on a residentially zoned property surrounded by other residentially zoned/used properties, and

BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023

PUBLIC HEARING

Case No. 23-CUP-0238

WHEREAS, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because bringing the building forward would prevent the applicant from providing an adequate parkway buffer while still providing enough space for parking and outdoor space in the rear for the dogs, and

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant has not begun construction; now, there be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from the Land Development Code, Section 5.3.1 to allow proposed structures to exceed the maximum 95-foot front yard setback by 20 feet (23-VARIANCE-0126)

The vote was as follows:

YES: Members Leanhart, Horton, Howard, Ford, Buttorff and Chair Bond

ABSENT: Member Vozos

Conditional Use Permit to allow a commercial kennel in the R-4 zoning district (LDC 4.2.17)

02:49:34 On a motion by Member Buttorff, seconded by Member Horton, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the proposal meets all applicable policies of the Comprehensive Plan, and

WHEREAS, the proposed improvements are compatible with surrounding development and land uses, and

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

WHEREAS, the proposal is meeting all the standards or will have conditions of approval to ensure that standards are met. The conditions of approval include hours of operation as well as a timeframe where dogs are and are not allowed outside to mitigate noise issues. The applicant has submitted plans on how the facility handles animal wastes, all outdoor areas will be secured and fenced in, and signage will follow the requirements

BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023

PUBLIC HEARING

Case No. 23-CUP-0238

set forth in the parkway buffer requirements in chapter 10 of the LDC; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Conditional Use Permit to allow a commercial kennel in the R-4 zoning district (LDC 4.2.17) **SUBJECT** to the following 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 Commercial Kennel until further review and approval by the Board.
3. Customer hours, including pick/drop off shall be from 7 A.M to 7 P.M. There shall be no dogs left unattended outside between the hours of 7 P.M. to 7 A.M
4. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 25, 2023 Board of Zoning Adjustment. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.

The vote was as follows:

YES: Members Horton, Ford, Howard, Buttorff and Chair Bond
ABSENT: Member Vozos and Leanhart

BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023

PUBLIC HEARING

Case No. 23-CUP-0350

Request:	Conditional Use Permit for transitional housing
Project Name:	MaSire Care
Location:	1450 Cypress Street
Owner:	House of True Faith & Strength, LLC
Applicant:	Paris Shannon
Representative:	Paris Shannon
Jurisdiction:	Louisville Metro
Council District:	1 – Tammy Hawkins
Case Manager:	Joel P. Dock, AICP, Planning 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:

02:51:18 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

Paris Shannon, 1450 Cypress St., Louisville, KY 40210

Summary of testimony of those in support:

02:55:18 Paris Shannon spoke in support of the request and responded to questions from Board Members (see recording for detailed presentation)

The following spoke in opposition of the request:

None

03:07:25 Board Members' deliberation.

BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023

PUBLIC HEARING

Case No. 23-CUP-0350

Conditional Use Permit for Transitional Housing with relief from item 'D' (LDC 4.2.55)

03:07:42 On a motion by Member Leanhart, seconded by Member Howard, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the proposal is consistent with applicable policies of the Comprehensive Plan, Plan 2040, which calls for safe and affordable housing opportunities and related supportive services throughout Louisville Metro to serve the homeless population and those in need of housing, including but not limited to, rent assistance, transitional housing, and shelters. The Plan calls for allowing supportive housing to be available for individuals entering or re-entering society upon their exit from residential care facilities, correctional facilities, foster care or similar institutions. The proposal is for transitional housing. No exterior changes are proposed which alter the essential character of the general vicinity and the proposal is in a walkable neighborhood with access to public transit, and

WHEREAS, the proposal is compatible with surrounding land uses and the general character of the area including factors such as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting, and appearance. No improvements are being made to the exterior of the residence that alter the compatibility with the surrounding area. The property is situated along a roadway with sidewalks and transit service, and

WHEREAS, all necessary on-site and off-site public facilities such as transportation, sanitation, water, sewer, drainage, emergency services, education, and recreation adequate to serve the proposed use are available or will be provided, and

WHEREAS, the applicant has demonstrated or will be required to provide compliance with each of the lettered standards of the conditional use permit, except where relief is necessary for item 'D'. Relief is necessary due to the proximity of a conditional use permit approved for group housing at 2318 Bolling Ave, which is 875' from the subject property. The property at 2318 Bolling operates a rehabilitation home which is distinguished from transitional housing as a more intensive use on the property and provides supportive services for individuals that may need transitional housing upon their re-entry into society from the rehabilitation home; now, therefore be it

BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023

PUBLIC HEARING

Case No. 23-CUP-0350

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the request Conditional Use Permit for Transitional Housing with relief from Item 'D' (LDC 4.2.55) **SUBJECT** to the following 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 transitional housing until further review and approval by the Board.
3. The maximum number of occupants shall not exceed 6, unless prior approval is received by the Board of Zoning Adjustment
4. An active license for the Boarding House, as required by LMCO Chapter 115, shall be maintained.

The vote was as follows:

YES: Members Horton, Leanhart, Ford, Howard, Buttorff and Chair Bond
ABSENT: Members Vozos

**BOARD OF ZONING ADJUSTMENT MINUTES
September 25, 2023**

The meeting adjourned at approximately 04:13 p.m.

Chair

Secretary