

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

October 16, 2023

A meeting of the Louisville Metro Board of Zoning Adjustment was held on Monday, October 16, 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
Yani Vozos (in late)
Lula Howard

Members Absent:

Kimberly Leanhart

Staff Members Present:

Brian Davis, Assistant Director
Joel Dock, Planning & Design Supervisor
Joe Haberman, Planning & Design Manager
Laura Ferguson, Legal Counsel
Mary Willis, Management Assistant
Rachel Casey, Senior Planner
Amy Brooks, Planner I
Molly Clark, Planner II
Heather Pollock, Planner I
Jermey Chesler, Planner I
Ethan Lett, Planner I

The following cases were heard:

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

September 25, 2023, Board of Zoning Adjustment Meeting Minutes

00:04:35 On a motion by Member 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 September 25, 2023, Board of Zoning Adjustment meeting.

The vote was as follows:

YES: Members Horton, Ford, Vice Chair Buttorff, and Chair Bond

ABSTAIN: Members Howard

ABSENT: Member Leanhart & Member Vozos

October 2, 2023, Board of Zoning Adjustment Meeting Minutes

00:05:09 On a motion by Member 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 October 2, 2023, Board of Zoning Adjustment meeting.

The vote was as follows:

YES: Members Horton, Ford, Vice Chair Buttorff, and Chair Bond

ABSTAIN: Members Howard

ABSENT: Member Leanhart & Member Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

BUSINESS SESSION

Case No. 23-VARIANCE-0136

Request:	Variance to allow an accessory structure to encroach into the required rear yard setback
Project Name:	Samoa Way Variance
Location:	815 Samoa Way
Owner:	Brian and Corey Kiesler
Applicant:	Brian Kiesler
Representative:	Brian Kiesler
Jurisdiction:	Louisville Metro
Council District:	9 – Andrew Owen
Case Manager:	Rachel Casey, Senior Planner

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:

00:05:54 Board Member reviewed the material and discussed the case (see recording for details).

00:06:13 Board Members' discussion

Variance from Land Development Code, Section 5.4.2.C.3.a to allow an accessory structure to encroach into the required rear yard setback

00:06:23 On a motion by Member Horton, seconded by Member Howard, the following resolution, was adopted:

WHEREAS, the requested variance will not adversely affect the public health, safety or welfare, because the encroachment into the rear yard does not impede the safe movement of vehicles or pedestrians or encroach upon adjacent property. The applicant has obtained consent from adjacent property owners for the proposed design, and

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

BUSINESS SESSION

Case No. 23-VARIANCE-0136

WHEREAS, the proposed accessory structure will not alter the essential character of the general vicinity because it will be similar in size, design, and site placement to other garages on the block and in the neighborhood, and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public because the accessory structure is located at the rear of the property and must be constructed to comply with all building codes, and

WHEREAS, The requested variance will not allow an unreasonable circumvention of the zoning regulations because the shape of the property is unusual, with a reduced rear yard and an acute angle at the southeast corner to accommodate a utility easement. The proposed design is the best option to construct the accessory structure without requiring further exceptions from the Land Development Code and building code, and

WHEREAS, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone, because the property has an unusual shape compared to other lots on the block and in the neighborhood, and

WHEREAS, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the proposed design maximizes conformance to the Land Development Code and building code. If the proposed accessory structure were moved toward the front of the lot, it would encroach into the required side yard setback, which would create a greater nuisance to adjoining property owners. Additionally, if the accessory structure were moved toward the front of the lot and away from the side property line, it would no longer meet the building code requirement of 10' between detached buildings. The proposed design has the least amount of impact on surrounding properties and maximizes conformance to both codes, 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. The applicant has not started construction on the garage and has requested a variance; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from Land Development Code, Section 5.4.2.C.3.a to allow an accessory structure to encroach into the required rear yard setback.

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

BUSINESS SESSION

Case No. 23-VARIANCE-0136

ABSENT: Member Leanhart & Member Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0063

Request: Variances to allow a structure to encroach into the required side yard setback and to allow a fence to exceed the maximum height in the rear yard.

Project Name: Ronwood Drive Variance
Location: 4921 Ronwood Drive
Owner: Heyler Perez
Applicant: Edna Blanco
Representative: Edna Blanco
Jurisdiction: Louisville Metro
Council District: 24- Madonna Flood
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.

Agency testimony:

00:08:04 Amy Brooks presented the case and showed a Power Point presentation. Amy Brooks responded to questions from the Board members (see staff report and recording for detailed presentation.)

The case was tabled until later in the meeting in order for the applicant to attend.

00:18:31 On a motion by Member Howard, seconded by Member Ford, the following resolution, was adopted:

The vote was as follows:

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

The applicant arrived shortly after the motion to table and a new motion was made to immediately un-table the case

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0063

00:20:37 On a motion by Board Member Horton, seconded by Board Member Howard, the following resolution was adopted.

The vote was as follows:

YES: Members Horton, Ford, and Vozos
NO: Members Buttorff, Howard, and Bond
ABSENT: Member Leanhart

The motion failed due to lack of a simple majority.

A new motion was to un-table the case later in the meeting.

01:37:37 On a motion by Board Member Howard, seconded by Board Member Vozos, the following resolution was adopted:

The vote was as follows:

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

The following spoke in support of the request:

Katherine Nolasco, 1015 Reeves Rd., Louisville, KY 40219

Summary of testimony of those in support:

01:39:38 Katherine Nolasco spoke in support of the request and responded to questions from Board Members (see recording for detailed presentation)

01:40:34 Board Members discussed with Joe Haberman and Joel Dock about the height of the fence and issues pertaining to the construction (see recording for detailed presentation)

01:53:22 Katherine Nolasco continued responding to Board Members questions (see recording for details)

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0063

01:55:19 Board Members continued the discussion with Joe Haberman and Joel Dock (see recording for details)

**The following spoke in opposition to the request:
None**

01:58:55 Board Members' discussion

Variance from Land Development Code section 4.4.3.A.1.a.ii to allow a fence to exceed 8 feet in height within the required rear yard.

Variance from Land Development Code Table 5.3.1 to allow a principal structure to encroach into the side yard setback.

02:08:15 On a motion by Member Buttorff, seconded by Member Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

(VARIANCE #1) WHEREAS the requested variance will not adversely affect the public health, safety or welfare, because the fence must be constructed to comply with all building codes and the land development code, except where relief is requested, and

WHEREAS, the proposed height will alter the essential character of the general vicinity as the height of fences located in rear yards is more common to be less than 8' and constructed of wood or chain link, and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public as it does not interfere with the movement of people or vehicles and no natural features are impacted, and

WHEREAS, the requested variance will allow an unreasonable circumvention of the zoning regulations because the fence was/is capable of being modified to be within the height limits or at a lesser height that would require a smaller dimensional variance request, and

WHEREAS, the requested variance does not arise from special circumstances which do not generally apply to the land in the generally vicinity or the same zone as the same requirements for fences in side or rear yards are applicable to all residential fences in Neighborhood forms, and

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0063

WHEREAS, the strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant as the existing fence height could be reduced/modified to conform with the existing regulations, and

WHEREAS, the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant has already constructed the fence, and

(VARIANCE #2) 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 the Land Development Code, except where relief is requested. However, staff is concerned that the variance could adversely affect the adjacent property owners because construction and maintenance of the structure may require encroachment onto the adjacent property, and

WHEREAS, the enclosed, attached deck alters the essential character of the general vicinity. Most structures that encroach into the required side setbacks within this neighborhood seemingly complement the existing home's exterior aesthetics; however, this structure does not align with this established pattern. The addition is composed of roofing material, which is not compatible to the existing brick façade, and

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

WHEREAS, the requested variance will allow an unreasonable circumvention of the zoning regulations. While there are other principal structures along this stretch of Ronwood Drive that seemingly encroach into the side yard setbacks, there are none that do so to the degree of this addition, and

WHEREAS, the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the property is similar in size and shape to other properties in the subdivision, and

WHEREAS, the strict application of the provisions of the regulation would not create an unnecessary hardship because the applicant could modify or reduce the size of the enclosed deck to bring it into more conformance with existing regulations, and

WHEREAS, the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the applicant has completed construction on the new addition; now, therefore be it

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0063

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the requested **(1)** Variance from Land Development Code section 4.4.3.A.1.a.ii to allow a fence to exceed 8 feet in height within the required rear yard (**Requirement 96in., Request 100in., Variance 4in.**) **(2)** Variance from Land Development Code Table 5.3.1 to allow a principal structure to encroach into the side yard **setback (Requirement 6ft., Request 1ft., Variance 5ft.)**

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0123

Request: Variance and Waiver associated with a Category 3
Development Plan
Project Name: Outer Loop Retail Center
Location: 4807 Outer Loop
Owner: Jefferson Anchor S LLC
Applicant: Jefferson Anchor S LLC
Representative: Qk4, Inc.
Jurisdiction: Louisville Metro
Council District: 24 – Madonna Flood
Case Manager: Ethan Lett, Planner I

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

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

Agency testimony:

00:23:00 Ethan Lett presented the case and showed a Power Point presentation. Lett responded to questions from Board Members (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

Ashley Bartly, Qk4, 9920 Corporate Campus Dr., Louisville, KY 40233

Summary of testimony of those in support:

00:27:54 Ashley Bartly spoke in support of the request and presented a PowerPoint presentation. Bartly responded to questions from Board Members (see recording for detailed presentation)

00:34:36 Joel Dock responded to Board Member Buttorff's question.

The following spoke in opposition of the request:

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0123

None

00:35:57 Board Members' deliberation

Variance from Land Development Code, Section 5.3.3.C.2.a to allow the principal structure to be exceed the 275' maximum front setback by 160'

00:37:04 On a motion by Member Howard, 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 variance will not adversely affect the public health, safety or welfare since the placement will match that of the existing building, and

WHEREAS, the requested variance will not alter the essential character of the general vicinity since this area is characterized by shopping centers with large parking lots and buildings placed far back from the roadway, and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public since the building will be constructed in the same location of the existing building which allows for greater space between the residential neighborhood across the street than would otherwise be provided if the structure complied with the regulation, and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations since other properties in the vicinity observe similar setbacks and site layout. The proposed layout will be in keeping with the existing character of the area, and

WHEREAS, this lot is subject to existing circumstances as it is connected to an existing shopping mall and compliance with the regulation would disrupt the connectivity of the proposed structure to the rest of the existing mall and would alter the vehicular circulation within the site, and

WHEREAS, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as they would be required to reconfigure the existing parking lot and vehicular circulation between the proposed building and the existing mall, and

WHEREAS, While the circumstances are the result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought, the

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0123

existing mall was developed prior to the adoption of the regulation, so the building that is being replaced by this proposal was not subject to the regulation; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from Land Development Code, Section 5.3.3.C.2.a to allow the principal structure to be exceed the 275' maximum front setback by 160'

The vote was as follows:

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

Waiver from LDC Section 10.3.5.A.1 to allow an existing access road to encroach into the 30' parkway buffer

00:38:24 On a motion by Member Howard, 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 waiver will not adversely affect adjacent property owners since the encroachment is an existing condition and the access road works to reduce traffic on the main thoroughfare, and

WHEREAS, Community Form Goal 1, Policy 17 calls for mitigating adverse impacts of traffic from proposed development on nearby existing communities. Mobility Goal 3, Policy promotes joint access and circulation systems for development sites comprised of more than one building or lot. The encroaching road provides access to the existing mall and the existing outlot developments. Providing circulation within this activity center reduces traffic congestion on the main thoroughfare and works to minimize potential negative impacts on properties adjacent to the main thoroughfare, and

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the encroachment is an existing condition and all required plantings will still be provided, and

WHEREAS, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship on the applicant since the encroachment is an existing condition and removal or relocation of the existing access road would disrupt vehicular circulation both to the

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0123

existing mall and to the adjacent properties which rely on that road as their primary means of vehicular access; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Waiver from LDC Section 10.3.5.A.1 to allow an existing access road to encroach into the 30' parkway buffer.

The vote was as follows:

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

ABSENT: Member Leanhart

Category 3 Development Plan

00:39:32 On a motion by Member Howard, seconded by Member Ford, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, 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 Horton, Vozos, Howard, Ford, Vice Chair Buttorff and Chair Bond

ABSENT: Member Leanhart

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0108

Request:	Variance to allow a freestanding sign to exceed the permitted area and a WAIVER to permit a changing image sign within 300ft. of residential use.
Project Name:	Kosair Freestanding Sign Variance
Location:	4120 Bardstown Road
Owner:	Trustees of Kosair Shrine
Applicant:	Kosair Shriners
Representative:	Tim Hall, Chief Rabban, Kosair Shriners
Jurisdiction:	Louisville Metro
Council District:	2 – Barbara Shanklin
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:

00:40:46 Heather Pollock presented the case and showed a Power Point presentation. Pollock responded to questions from Board Members (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

Tim Hall, 324 Dale Rd., Louisville, KY 40229

Summary of testimony of those in support:

00:46:55 Tim Hall 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:

None

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0108

00:51:52 Board Members' deliberation

Variance of Land Development Code (LDC), Section 8.3.3, Table 8.3.2 to allow a freestanding sign to exceed the maximum area permitted

00:52:32 On a motion by Member Buttorff, 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 requested variance will not adversely affect the public health, safety and welfare and will not cause a hazard or a nuisance to the public, nor will it allow an unreasonable circumvention of the requirements of the zoning regulations as the sign will not impact the safe movement of pedestrians and vehicles as the sign is setback from the roadway and property entrances. With the exception of the residential use across Buechel Bypass, the adjacent land uses are commercial or light industrial, and

WHEREAS, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone as this is a large property surrounded by streets on all sides, and the existing sign is setback from the property line by about 65ft, and

WHEREAS, Strict application of the regulations would create an unnecessary hardship on the applicant as the existing signage is very close to the maximum area permitted which leaves no flexibility for a smaller changing image sign. The sign is in character with the existing development on the site and with the surrounding nonresidential uses, and

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulations as work has not begun on the proposed sign for which the variance is being requested; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance of Land Development Code (LDC), Section 8.3.3, Table 8.3.2 to allow a freestanding sign to exceed the maximum area permitted.

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0108

Waiver of LDC Section 8.2.1.D.6 to allow a changing image sign within 300 ft. of residential use

00:53:05 On a motion by Member Buttorff, 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 waiver will not adversely affect adjacent property owners, as the majority of adjacent uses are non-residential. Additionally, the changing image sign will not be directly facing the adjacent residential use and will have auto-dimming features, and

WHEREAS, the waiver will not violate Community Form Goal 1 number 14: Ensure that signs are compatible with the Form District pattern and contribute to the visual quality of their surroundings. Promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety. Encourage signs that are integrated with or attached to structures wherever feasible; limit freestanding signs to monument style signs unless such design would unreasonably compromise sign effectiveness. Give careful attention to signs in historic districts, parkways, scenic corridors, design review districts and other areas of special concern. For freestanding signs in multi-lot developments, minimize the number of signs by including signage for each establishment on the same support structure and encourage consistent design (size, style, and materials). The proposed sign is compatible with this guideline, it is columnar style, and of a design compatible with existing development on the site and other signage in the area, and

WHEREAS, the extent of the waiver of the regulations is the minimum necessary to afford relief to the applicant as the sign location is approximately 221 ft. from a residentially used property across Buechel Bypass, and

WHEREAS, the applicant has incorporated other design measures that compensate for noncompliance with the requirements to be waived, the changing image sign will be on the bottom portion of the sign, and it will not be directly facing the adjacent residential use, this will mitigate the impact the sign has. Additionally, the proposed area of the changing image sign is less than the 60% of the total sign area permitted; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Waiver of LDC Section 8.2.1.D.6 to allow a changing image sign within 300 ft. of residential use.

**BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023**

PUBLIC HEARING

Case No. 23-VARIANCE-0108

The vote was as follows:

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

ABSENT: Member Leanhart

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0116

Request: Variance to allow a freestanding sign to exceed the changing image sign area and permitted height on a designated 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:

00:54:13 Heather Pollock presented the case and showed a Power Point presentation. Pollock responded to questions from the Board members (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

Mike Borland, 9902 Melissa Dr., Louisville, KY 40223

Summary of testimony of those in support:

01:01:39 Mike Borland 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:

None

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0116

01:09:08 Board Members' deliberation

Variance of Land Development Code (LDC), Section 8.3.3, Table 8.3.3 to allow a freestanding sign to exceed the maximum height permitted along a designated parkway.

Variance of Land Development Code (LDC), Section 8.2.1.D.4 to allow a changing image sign to be greater than 30% of the total sign area.

01:10:09 On a motion by Member Howard, seconded by Member Vozos, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted.

(VARIANCE #1) WHEREAS, the requested variance will not adversely affect the public health, safety and welfare and will not cause a hazard or a nuisance to the public, nor will it allow an unreasonable circumvention of the requirements of the zoning regulations as the sign will not impact the safe movement of pedestrians and vehicles as it is sufficiently setback from the roadway. There are other freestanding signs in the area that exceed the Parkway height standards, and

WHEREAS, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone as the proposed sign height is in compliance with the form district standards, which would otherwise apply in the absence of the Parkway, and

WHEREAS, strict application of the regulations would create an unnecessary hardship on the applicant as the proposed sign is in character with the existing development on the site and with the surrounding commercial uses. There are other freestanding signs in the area that exceed the Parkway height standards, and

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulations as work has not begun on the proposed sign for which the variance is being requested, and

(VARIANCE #2) WHEREAS, the requested variance will not adversely affect the public health, safety and welfare and will not cause a hazard or a nuisance to the public, nor will it allow an unreasonable circumvention of the requirements of the zoning regulations as the sign will not obstruct the save movement of vehicles and pedestrians. Additionally, it is in character with the existing development on the site and with the

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0116

adjacent commercial uses along the Bardstown Road corridor. The sign location is greater than 300 ft. from any residentially used properties, and

WHEREAS, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone as the location of the sign is adjacent to Bardstown Road and zoned commercial. Whereas the remainder of the property to the rear is zoned residential, and

WHEREAS, strict application of the regulations would create an unnecessary hardship on the applicant as the proposed sign is in character with the existing development on the site and with the surrounding commercial uses. The sign is setback from the road and the proposed changing image sign area would make it more visible to vehicular traffic, and

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulations as work has not begun on the proposed sign for which the variance is being requested; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested **(1)** Variance of Land Development Code (LDC), Section 8.3.3, Table 8.3.3 to allow a freestanding sign to exceed the maximum height permitted along a designated parkway. **(2)** Variance of Land Development Code (LDC), Section 8.2.1.D.4 to allow a changing image sign to be greater than 30% of the total sign area.

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0139

Request: Variance to allow an attached sign to exceed maximum permitted area.
Project Name: UPS Attached Sign
Location: 4525 Crittenden Drive
Owner: Regional Airport Authority of Louisville
Applicant: United Parcel Service
Representative: Jerrica Grance, Blair Image Elements
Jurisdiction: Louisville Metro
Council District: 21 – Betsy Ruhe
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:

01:12:33 Heather Pollock presented the case and showed a Power Point presentation. Pollock responded to questions from the Board members (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

Timothy Logue, 150 E Lakeshore Drive Unit 7, Lake Elsinore, CA 92530

Summary of testimony of those in support:

01:17:37 Timothy Logue 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

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0139

01:19:43 Board Members' deliberation.

Variance of Land Development Code (LDC), Section 8.3.3, Table 8.3.2 to allow a freestanding sign to exceed the maximum area permitted

01:20:04 On a motion by Member Ford, 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 requested variance will not adversely affect the public health, safety and welfare and will not cause a hazard or a nuisance to the public, nor will it allow an unreasonable circumvention of the requirements of the zoning regulations as the sign will not impact the safe movement of pedestrians and vehicles. The proposed sign area is compatible with the scale of the building and subject site. The façade the sign will be attached to is 71,560 sq. ft, and

WHEREAS, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone as the subject site is large as is the façade the sign will be attached to, and

WHEREAS, Strict application of the regulations would create an unnecessary hardship on the applicant as the proposed sign is in character with the existing development on the site and with the surrounding Industrial uses, and

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulations as work has not begun on the proposed sign for which the variance is being requested; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance of Land Development Code (LDC), Section 8.3.3, Table 8.3.2 to allow an attached sign to exceed the maximum area permitted.

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0129

Request: Variance to allow a fence to exceed the maximum height in the required street side yard setback
Project Name: Chenoweth Lane Fence Variance
Location: 353 Chenoweth Lane
Owner: Brian & Caroline Silvers
Applicant: Brian Silvers
Representative: Brian Silvers
Jurisdiction: Louisville Metro
Council District: 9 – Andrew Owen
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:

01:21:49 Jeremy Chesler presented the case and showed a Power Point presentation. Chesler responded to questions from Board Members (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

Brian Silvers, 353 Chenoweth Ln, Louisville, KY 40207

Summary of testimony of those in support:

01:28:40 Brian Silvers spoke in support of the request and responded to questions from Board Members (see recording for detailed presentation)

01:31:23 Joel Dock responded to Board Member Hortons question.

The following spoke in opposition to the request:

None

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0129

01:33:21 Board Members' deliberation.

Variance from Land Development Code (LDC), Section 4.4.3.A.1.a.i to allow a fence to exceed the maximum height of 48 inches (4') in the required street side yard setback

01:34:47 On a motion by Member Vozos, 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 fence is not located in a way that would impede vision for any pedestrians or motorists, and

WHEREAS, the fence will not alter the essential character of the general vicinity as there are other properties nearby, along Chenoweth Lane with fences that appear to exceed the maximum height in the street side yard setbacks. Vegetation is present on the property that will provide visual breaks for the largest span of fence, along Druid Hills Road. Screening along the shared property line on Druid Hills currently impacts any expected view from neighboring property and mitigates the impact of the fence on the general character of the area, specifically the adjacent property owner, and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public because the fence is located a significant distance away from the intersection of Chenoweth Lane and Druid Hills Road and will not lead to any vision clearance issues for pedestrians or motorists, and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations. The proposed location of the fence on the property appears to minimize the relief required and vegetation that is taller than 6' is present along the property line between lots along Druid Hills, and

WHEREAS, the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone, and

WHEREAS, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the requested variance will not adversely affect public health, safety, or welfare, cause a hazard or nuisance to the public, or negatively impact the general character of the area., and

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0129

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 is appropriately requesting relief prior to construction of the fence; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from Land Development Code (LDC), Section 4.4.3.A.1.a.i to allow a fence to exceed the maximum height of 48 inches (4') in the required street side yard setback

The vote was as follows:

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

NO: Vice Chair Buttorff

ABSENT: Members Leanhart and Ford

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0133

Request: Variance to allow a second story edition to encroach into the side yard setbacks
Project Name: S Preston Street Variance
Location: 1343 S Preston Street
Owner: JANDC Properties, LLC
Applicant: Jose Hernandez
Representative: Jose Hernandez
Jurisdiction: Louisville Metro
Council District: 6 – Phillip Baker
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:

02:09:40 Molly Clark 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:

None

The following spoke in opposition of the request:

None

02:13:10 Board Members' deliberation.

Variance from Land Development Code (LDC) section 5.2.2 to allow a second story to encroach into the required 2.7 ft setback

02:14:01 On a motion by Member Ford, seconded by Member Vozos, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-VARIANCE-0133

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 the Land Development Code, except where relief is requested, and

WHEREAS, the existing home and surrounding homes are built to similar setbacks from side property lines, and

WHEREAS, the addition will not cause a hazard or nuisance to the public since it is required to meet all applicable requirements of the building code. The applicant will be fire rating the walls, and

WHEREAS, the proposed setback would not be an unreasonable circumvention of the zoning regulations because the proposed setback is consistent with the existing structure and to surrounding structures in the neighborhood, and

WHEREAS, the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the lot is the same size and shape in comparison to the surrounding properties, and

WHEREAS, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the applicant is constructing the addition over the existing 1 story building footprint and bringing the addition away from the side yard may cause issues in the construction of the structure due to the location of existing load bearing walls, 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, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the request Variance from Land Development Code (LDC) section 5.2.2 to allow a second story to encroach into the required 2.7 ft setback.

The vote was as follows:

YES: Members Horton, Vozos, Howard, Vice Chair Buttorff and Chair Bond

ABSENT: Members Leanhart and Ford

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-NONCONFORM-0024

Request:	Nonconforming Rights
Project Name:	1910 Lower Hunters Trace
Location:	1910 Lower Hunters Trace
Owner:	Kelty Property Management LLC
Applicant:	Chris Kelty
Representative:	Chris Kelty
Jurisdiction:	Louisville Metro
Council District:	12 – Rick Blackwell
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:

02:15:58 Joel Dock presented the case and showed a Power Point presentation. Dock responded to questions from Board Members (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

Chris Kelty, 1310 Lower Hunter Trace, Louisville, KY 40216

Cindi Fowler, 607 W. Jefferson, Louisville, KY 40202

Summary of testimony of those in support:

02:23:48 Chris Kelty spoke in support of the request and provided material for the Board Members to review. Kelty responded to questions from Board Members (see recording for detailed presentation)

02:33:04 Joe Haberman discussed with the Board the complaint that was file against the property in question.

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-NONCONFORM-0024

02:35:45 Joe Haberman responded to Board Member Bond's question (see recording for details)

02:36:51 Chris Kelty continued answering Board Members questions (see recording for details)

02:47:48 Joe Haberman and Laura Ferguson responded to Chris Kelty's question.

02:53:53 Cindi Fowler spoke in support of the request and responded to questions from Board Members (see recording for detailed information)

The following spoke in opposition to the request:

None

02:57:11 Board Members' deliberation.

03:09:01 On a motion by Member Howard, seconded by Member Buttorff, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Nonconforming rights for the portion where the two buildings appear on the aerial photo dating back to 1946.

The vote was as follows:

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

ABSENT: Member Leanhart

Nonconforming Rights

3:14:30 On a motion by Member Howard, seconded by Member Ford, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the requested Nonconforming rights for the landscaping contractor shop for the remainder of the site absent of the two accessory building in the 1946 aerial photo.

**BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023**

PUBLIC HEARING

Case No. 23-NONCONFORM-0024

The vote was as follows:

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

ABSENT: Member Leanhart

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-CUP-0285

Request:	Conditional Use Permit for a Private Institutional Use
Project Name:	Meredith Dunn School
Location:	3023 Melbourne Avenue
Owner:	Meredith Dunn School Inc.
Applicant:	Alex Rosenberg, AL Engineering, Inc.
Representative:	Alex Rosenberg, AL Engineering, Inc.
Jurisdiction:	Louisville Metro
Council District:	26- Brent Ackerson
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.

Agency testimony:

03:17:20 Amy Brooks presented the case and presented a Power Point presentation (see staff report and recording for detailed presentation and discussion.)

The following spoke in support of the request:

Alex Rosenberg, 13000 Middletown Ind. Blvd. Ste A, Louisville, KY 40223

Mark Lichtefeld, 908 S. 8th Street Ste 102, Louisville, KY 40203

Summary of testimony of those in support:

03:21:45 Alex Rosenberg spoke in support of the request and responded to questions from Board Members (see recording for detailed presentation)

03:24:00 Mark Lichtefeld spoke in support of the request and responded to questions from Board Members (see recording for detailed presentation)

Summary of testimony of those in opposition:

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-CUP-0285

None

03:25:49 Board Members' deliberation.

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

03:26:48 On a motion by Member Howard, seconded by Member Vozos, 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, 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 on the neighborhood, the school has provided 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 existing buildings and proposed addition will be located closer than 30 feet to the property line in areas that are adjacent to residential properties. However, the subject site has an existing tree canopy that provides buffering and screening to mitigate the impact of the use on the properties to the north and west of the subject site. The proposed addition will not generate any new parking requirements. In fact, the proposed building will replace thirteen parking spaces and screen more of the off-street parking lot from the residential properties located across Midland Avenue. There is off-street parking on the southeastern property line that was approved under 14VARIANCE1051. 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 Conditional Use Permit for private institutional use (LDC 4.2.65) **SUBJECT** to the following Conditions of Approval:

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-CUP-0285

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 Horton, Vozos, Howard, Ford, Vice Chair Buttorff and Chair Bond

ABSENT: Member Leanhart

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-CUP-0196

Request:	Conditional Use Permit for a Private Institutional Use
Project Name:	Life of Faith Church
Location:	14200 Spegal Lane
Owner:	Family of Faith Fellowship, INC.
Applicant:	Blomquist Design Group, LLC
Representative:	Blomquist Design Group, LLC.
Jurisdiction:	Louisville Metro
Council District:	20 – Stuart Benson
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:

03:29:00 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:

Marv Blomquist, Blomquist Design Group, 10529 Timberwood Circle, Louisville, KY 40223

Summary of testimony of those in support:

03:32:43 Marv Blomquist spoke in support of the request and responded to Board Member questions (see recording for detailed presentation)

The following spoke in opposition to the request:

None

03:35:28 Board Members' deliberation.

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-CUP-0196

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

03:35:41 On a motion by Member Vozos, 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 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 applicant's proposal will be meeting standards A., B., C., and D. The new multipurpose room will serve existing members and should not generate more traffic. The current road network used to access the church is adequate. The hours will be common hours for a religious institution and will not cause any adverse effects or a nuisance to the adjacent residential neighborhood; now, therefore be it

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

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 private institutional use until further review and approval by the Board.

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-CUP-0249

Request:	Conditional Use Permit for a Private Institutional Use with a Landscape Waiver and a Variance
Project Name:	Virginia School of Chance
Location:	4200 & 4301 Lime Kiln Lane
Owner:	The Chance School, INC.
Applicant:	Blomquist Design Group, LLC
Representative:	Blomquist Design Group, LLC
Jurisdiction:	Louisville Metro
Council District:	16 – Scott Reed
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:

03:37:02 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:

Marv Blomquist, Blomquist Design Group, 10529 Timberwood Circle, Louisville, KY 40223

Daniel Preston, Archon Architects, 1000 Cherokee Rd, Louisville, KY 40204

Summary of testimony of those in support:

03:43:13 Marv Blomquist spoke in support of the request and presented a PowerPoint presentation. Blomquist responded to questions from Board Members (see recording for detailed presentation)

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-CUP-0249

03:59:05 Daniel Preston spoke in support of the request and responded to questions from Board Members (see recording for details)

The following spoke in opposition to the request:

Hiram Polk Jr., 5609 River Knols Drive, Louisville, KY 40272

Summary of testimony of those in support:

04:01:18 Hiram Polk Jr. spoke in opposition to the request. Polk stated communication has been limited or non-existent when it comes to the project. Polk mentioned the bright light has become a nuisance and can be blinding when driving past it. Polk responded to questions from Board Members (see recording for details)

Rebuttal:

04:06:07 Marv Blomquist spoke in rebuttal. Blomquist stated the light has been removed and discussed what was said at the neighborhood meeting. Blomquist responded to questions from Board Members (see recording for details)

04:10:28 Betsy Fitch, 6803 Gunpowder Ln, Prospect, KY 40059, spoke in rebuttal. Fitch confirmed the flashing signs that are posted near the crosswalk have been installed. Fitch responded to questions from Board Members (see recording for details)

04:13:46 Board Members' deliberation.

Variance from Land Development Code (LDC) section 5.3.2 to allow a proposed structure to exceed the 80 ft maximum setback by 84.7 feet and be the setback 164.7 feet

04:14:36 On a motion by Member Vozos, 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 proposed building will still have adequate vehicular and pedestrian access throughout the site, and

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-CUP-0249

WHEREAS, the requested variance will not alter the essential character of the general vicinity because the applicant is providing a 15 foot LBA along Lime Kiln Lane that will help screen the proposed pavilion that will be exceeding the setback, and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public because the proposed building must be constructed to comply with all building codes, and it will not adversely impact the safe movement of vehicles or pedestrians, and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations as the applicant will be providing a 15 foot LBA along Lime Kiln Lane that will screen the proposed pavilion that will be exceeding the setback. The applicant would also have to remove the existing drop off/pick up paved areas that allow for adequate vehicular access through the site, and

WHEREAS, the requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone because the lot is unusual in shape and size, and

WHEREAS, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the applicant would need to remove existing pick up and drop off paved areas in order to meet the setback, 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 is requesting the variance and has not begun construction; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Variance from Land Development Code (LDC) section 5.3.2 to allow a proposed structure to exceed the 80 ft maximum setback by 84.7 feet and be the setback 164.7 feet.

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-CUP-0249

Waiver from LDC section 10.2.4 of the Land Development Code to not provide the perimeter landscape buffer areas and screening adjacent to residentially zoned property.

04:16:05 On a motion by Member Vozos, 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 waiver will not adversely affect adjacent property owners, as the school has existed since the 1950's and has other outdoor classrooms, and

WHEREAS, the waiver will not violate Plan 2040 Community Form Goal 1, Policies 9 and 10 of Plan 2040 call to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements and the impacts caused when incompatible developments unavoidably occur adjacent to one another. Community Form Goal 1, Policy 12 states design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. The applicant is still providing landscape buffers along Lime Kiln Lane and has existing tree canopy that will screen portions of the property from adjacent residential, and

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant considering the applicant would need to remove historical structures and existing parking areas in order to meet the property perimeter buffer, and **WHEREAS**, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land because the applicant would have to remove historical structures and existing parking areas in order to meet the property perimeter buffer; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Waiver from LDC section 10.2.4 of the Land Development Code to not provide the perimeter landscape buffer areas and screening adjacent to residentially zoned property.

The vote was as follows:

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-CUP-0249

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

Conditional Use Permit for a private institutional use (LDC 4.2.65).

04:17:11 On a motion by Member Vozos, 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. The new pavilions will serve the existing students at the school and not increase enrollment or traffic, 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 applicant will need relief from item A to allow existing and proposed structures as well as parking areas to be closer than 30 feet to properties adjacent to residential zoning. The new pavilions will serve existing students and staff and should not generate more traffic. The current road network used to access the private school is adequate. The hours will be common hours for a private school and will not cause any adverse effects or a nuisance to the adjacent residential neighborhood; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Conditional Use Permit for a private institutional use (LDC 4.2.65) **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 private institutional use until further review and approval by the Board.

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

PUBLIC HEARING

Case No. 23-CUP-0249

The vote was as follows:

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

ABSENT: Member Leanhart

BOARD OF ZONING ADJUSTMENT MINUTES
October 16, 2023

The meeting adjourned at approximately 06:15 p.m.

Chair

Secretary