

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

AUGUST 20, 2012

(CASE NO. B-17830-12 ONLY)

A meeting of the Louisville Metro Board of Zoning Adjustment was held at 8:30.A.M. on Monday, August 20, 2012, 514 West Liberty Street, Old Jail Building, Old Jail Court Room, Louisville, Kentucky.

Members present were:

Betty Jarboe, Chairperson
David Proffitt, Vice Chairperson
Michael Allendorf, Secretary
Paul Grisanti
Don Wagaman
Frederick Liggin

Members absent:

Rosalind Fishman

Staff members present were:

Phillip Bills, Director
Jonathan Baker, Legal Counsel
Steve Hendrix, Planning Supervisor
Mike Hill, Planning Coordinator
Jon Crumbie, Planner II
Latondra Yates, Planner II
Chris Brown, Planner I
Lee Wells, Planning Technician
Beth Stevenson, Management Assistant

The following case was heard:

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BUSINESS SESSION:

**CASE NO. B-17830-12 ONLY
(FOR IMMEDIATE TRANSMITTAL)**

Applicant/Owner: Marilyn Velde
2134 Edgehill Road
Louisville, Kentucky 40205-1538

Attorney: Paul B. Whitty, Esq.
Goldberg Simpson
9301 Dayflower Street
Prospect, Kentucky 40059

Representative: Kristin Booker
Booker Design Collaborative, LLC
716 East Market Street
Louisville, Kentucky 40202

Subject: An application for revised variance from the Land Development Code to allow the proposed garage to be 0 feet from the east property line.

Premises affected: On property known as 2134 Edgehill Road and being in Louisville Metro.

**COUNCIL DISTRICT 8—Tom Owen
Staff Case Manager: Latondra Yates, Planner II**

Appearances for Applicant:
Paul B. Whitty, Attorney, 9301 Dayflower Street, Prospect, Kentucky 40059.

Appearances Interested Party:
No one

Appearances Against Applicant:
No one

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the office of Planning and Design Services, located at 444 South Fifth Street, Suite 300, Louisville, Kentucky.

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On July 16, 2012, Marilyn Velde filed an application for a variation from the requirements of the Land Development Code to allow an encroachment into the cemetery buffer; a reduction in the access easement; and for two separate fence gates to exceed the maximum height. Two of the variances were approved by the Board on August 6, 2012 allowing two fence gates to exceed the maximum 48-inch height in the front yard to 72 inches; and to reduce the width of the required 15-ft. access easement to 4 ft.

This case was continued from August 6, 2012 to allow the applicant time to submit a revised plan providing a 30-ft. buffer around each of the three cemeteries. The previously requested second variance, to allow the proposed garage to encroach into the required 30-ft. cemetery buffer by 24 feet was approved on condition that the applicant submit a revised plan accurately showing the cemetery buffer and to determine if additional variances might be needed. **This variance now needs to be revised to allow the proposed garage to be 0 feet from the east property line instead of 6 feet. The plan has been revised to provide the 30-ft. buffer around each of the three cemeteries**

On August 20, 2012, at a meeting of the Board, a hearing was held on this case. A drawing showing the premises affected and the existing and/or proposed construction was presented to each Board member.

In accordance with the Board Bylaws, the staff report prepared for this case was incorporated into the record. The Board members had received this report in advance of the hearing and it was available to any interested party prior to the public hearing. See Addendum for staff report in full.

The recording of this hearing will be found on the DVD of the August 20, 2012 proceedings.

SUMMARY OF STAFF PRESENTATION:

8:36:10 Staff case manager, Latondra Yates gave a brief presentation of the case to the Board. There was a meeting last week regarding some minor changes to the plan. The archaeologist was in attendance and said there would be no driveways over the grave sites. A 30 foot buffer will be maintained. Mrs. Yates has not received the plans but expects to receive them soon.

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DISCUSSION: Mr. Bills said the driveway was shown on the original plan but they had to relocate it to get it off the corner. The 30 foot setback is being provided.

Mr. Bills presented a plan to the Board with some minor changes.

SUMMARY OF TESTIMONY OF PROPONENTS:

8:46:46 Paul Whitty, the applicant's attorney, discussed a letter from Landmarks who had no objections.

SUMMARY OF TESTIMONY OF INTERESTED PARTIES:

No one

SUMMARY OF TESTIMONY OF OPPONENTS:

No one

REBUTTAL:

No one

BUSINESS SESSION:

No discussion.

8:48:43 After the public hearing in open business session, on a motion by Member Proffitt, seconded by Member Liggin, the following resolution was adopted:

WHEREAS, the Board finds from the file of this case, the staff report including the standard of review and additional consideration #2, where the four standard of review requirements control over the additional consideration; the revised site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearings that the applicant is requesting a revised variance of Section 4.4.6.B.4.a of the Land Development Code to allow a proposed garage to be **0 ft.** from the east property line; and

WHEREAS, the Board finds that the requested revised variance will not adversely affect the public health safety or welfare because the archaeological survey provided by the applicant indicates that there are not any graves in the

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area of the proposed garage; and because the cemetery will still be accessible to descendents and the public; and

WHEREAS, the Board finds that the revised variance will not alter the essential character of the general vicinity because it will allow the garage to be constructed without encroaching into the 25-ft. building setback; and

WHEREAS, the Board finds that the revised variance will not cause a hazard or nuisance to the public because the archaeological survey provided by the applicant indicates that there are not any graves in the area of the proposed garage; and because the cemetery will still be accessible to descendents and the public; and

WHEREAS, the Board finds that the revised variance will not allow an unreasonable circumvention of the zoning regulations because the archaeological survey indicates that grave sites will not be disturbed by construction of the garage, thereby, the general intent of the cemetery buffer may still be met;

WHEREAS, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because if the proposed garage was constructed elsewhere, it would require redesign in a manner that might not be as functional or create an encroachment into the 25-ft. building limit line;

NOW, THEREFORE, BE IT RESOLVED, that the Board does hereby **GRANT** the revised variance to allow the proposed garage to be 0 feet from the east property line.

The vote was as follows:

YES: Members Liggin, Jarboe and Proffitt

NO: Member Wagaman

NOT PRESENT FOR THIS CASE AND NOT VOTING: Member Fishman

ABSTAINING: Members Grisanti and Allendorf

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The meeting adjourned at approximately 8:50 a.m.

CHAIRPERSON

SECRETARY