

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

November 7, 2022

A meeting of the Louisville Metro Board of Zoning Adjustment was held on Monday, November 7, 2022 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky, and also via Webex.

Members Present:

Lula Howard, Chair
Richard Buttorff, Vice Chair
Sharon Bond, Secretary
Yani Vozos
Brandt Ford
Jan Horton

Members Absent:

Kimberly Leanhart

Staff Members Present:

Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Heather Pollock, Planner I
Molly Clark, Planner II
Joel Dock, Planning Coordinator
Amy Brooks, Planner I
Clara Schweiger, Planner I
Laura Ferguson, Legal Counsel
Chris Cestaro, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

No minutes to be approved.

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BUSINESS SESSION

Case No. 22-VARIANCE-0135

Project Name:	Cherrywood Road Variance
Location:	420 Cherrywood Road
Owner:	David and Donna Long
Applicant:	Michael Cadden
Jurisdiction:	City of St. Matthews
Council District:	9 – Bill Hollander
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:

00:04:57 Amy Brooks presented the case, showed a Power Point presentation, and responded to questions from the Board Members (see staff report and recording for detailed presentation.)

00:07:21 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 Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all building codes, including fire codes; and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as there are other street side yard encroachments such as a similar encroachment three blocks south at the intersection of Cherrywood Road and Massie Avenue; and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes; and

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WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed addition will be set at a similar distance from the side street as other existing additions in the vicinity, such as a similar encroachment three blocks south at the intersection of Cherrywood Road and Massie Avenue; and

WHEREAS, the Board further finds that 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 property is similar in size and shape to other properties in the area; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant; and

WHEREAS, the Board further finds that 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 a variance and has not yet begun construction on the addition; and

WHEREAS, the Board further finds that the variance will not adversely affect the public health, safety and welfare, and will not alter the essential character of the general vicinity and will not cause a hazard or a nuisance to the public as it will be constructed to meet all building codes and there are properties in the neighborhood with setbacks; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested **Variance** from City of St. Matthews Development Code section 4.6.C.2.c to allow a structure to encroach into the required street side yard setback (Requirement: 30 feet; Request: 27 feet; Variance: 3 feet.)

The vote was as follows:

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

ABSENT: Member Leanhart.

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PUBLIC HEARING

Case No. 21-VARIANCE-0181

Request:	CASE BEING CONTINUED TO NOV. 21 BOZA... A Variance for a proposed grocery store to exceed the 150 ft maximum front yard setback
Project Name:	Proposed Grocery Store with Outlots
Location:	10201 Brownsboro Road
Owner:	The Deerfield CO.
Applicant:	Silken Gold Real Estate
Representative:	Land Design and Development
Jurisdiction:	Louisville Metro
Council District:	17 – Markus Winkler
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:

00:09:08 Molly Clark explained that the notices were not properly labeled. The case will need to be continued to ensure adequate notice to surrounding residents.

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition to the request:

No one spoke.

Summary of testimony of those in opposition:

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Case No. 21-VARIANCE-0181

00:10:03 On a motion by Member Bond, seconded by Member Ford, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** this case to the **November 21, 2022** Board of Zoning Adjustment meeting.

The vote was as follows:

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

ABSENT: Member Leanhart.

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PUBLIC HEARING

Case No. 22-VARIANCE-0102

Request: **CONTINUE TO DECEMBER 5, 2022** - Variance to allow a private yard area to be less than the required 20% of the area of the lot.

Project Name: Esperanza Way Variance

Location: 2011 Esperanza Way

Owner/Applicant: Shellie & Arthur C. Eggers

Applicant: Arthur C. Eggers

Jurisdiction: Louisville Metro

Council District: 8 – Cassie Chambers Armstrong

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:

00:10:58 Heather Pollock explained that the applicant has submitted an updated site plan, which staff and the Board will need time to review.

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition to the request:

No one spoke.

00:12:33 On a motion by Member Ford, seconded by Vice Chair Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** this case to the **December 5, 2022** Board of Zoning Adjustment meeting.

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Case No. 22-VARIANCE-0102

The vote was as follows:

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

ABSENT: Member Leanhart.

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PUBLIC HEARING

Case No. 22-CUP-0175

Project Name:	Glenmary Club
Location:	10200 Glenmary Farm Drive
Owner(s):	AL CAT LLC/Valley Station Towne Center LLC
Applicant:	Chris Thieneman
Representative:	Dentons Bingham Greenebaum LLP
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
Case Manager:	Chris French, Planning & Design Supervisor

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

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

Agency testimony:

00:13:29 Chris French said that the Board continued this case from the October 31, 2022 BOZA meeting based on the agreement to accept additional information those in opposition. This information was submitted to the Board prior to today's meeting. (See staff report and recording for detailed presentation; also, the minutes and recording from the October 31, 2022 BOZA meeting and from the November 2, 2022 Development Review Committee meeting.) Mr. French also showed a Power Point presentation which reviewed the case, and responded to questions from the Board members.

The following spoke in favor of the request:

Jeff McKenzie, Dentons Bingham Greenebaum, 101 S 5th St, Louisville, KY 40202

Chris Thieneman, 2606 Alia Circle, Louisville, KY 40222

Derek Triplett, Land Design & Development, 503 Washburn Ave # 101, Louisville, KY 40222 (signed in but did not speak)

Neil Robertson, 5927 Drive, Louisville, KY 40258

Judy Patton, 10525 Black Iron Road, Louisville, KY 40291

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Christopher Worth, 13520 Ridgemoor Drive, Louisville, KY 40059

Trenda Metcalf, 10705 Long Barn Court, Louisville, KY 40291

Deborah Bowling, 10201 Glenmary Farm Drive, Louisville, KY 40291

Jennifer Eberle, 7504 Kendrick Crossing Lane, Louisville, KY 40291

Summary of testimony of those in favor:

00:22:33 Jeff McKenzie the applicant's representative, presented the applicant's case, showed a Power Point presentation, and responded to questions from the Board members (see recording for detailed presentation.)

00:42:29 Neil Robertson said he purchased property in the Glenmary subdivision, next door to the president of the Homeowner's Association. The HOA president objected to a Halloween party for children; and also accused Mr. Robertson of having "homeless people" in his house, who were actually friends visiting. He said he left because he was treated by the president of the Homeowner's Association. He also spoke in favor of the clubhouse project (see recording for detailed presentation.)

00:50:34 Chris Thieneman confirmed that he did sell the property to Mr. Robertson and then bought it back from him, at Mr. Robertson's request.

00:51:39 In response to questions from some of the Board members, Judy Patton said that Superior Builders bought the last 15 lots in the "Estate" section. There are currently 5-6 that have not yet been built on. She discussed the property values of Glenmary that were affected by the closing of the golf course, and further spoke in support of the proposal (see recording for detailed presentation.)

00:56:25 Christopher Worth spoke in support (see recording for detailed presentation.)

00:59:26 Trenda Metcalf spoke in support (see recording for detailed presentation.) She said the Homeowner's Association does not represent most of the homeowners, and added that the revitalization of the clubhouse benefits all of the homeowners.

01:04:58 Deborah Bowling spoke in support, and noted that her property is directly across the street from the clubhouse property (see recording for detailed presentation.)

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01:10:07 Jennifer Eberle spoke in support (see recording for detailed presentation.)

The following spoke in opposition of the request:

Donald Cox, Lynch, Cox, Gilman & Goodman, P.S.C., 500 W Jefferson St # 2100,
Louisville, KY 40202

Joe Schweinhart, 10305 Long Barn Court, Louisville, KY 40291

Ron Huff, 10402 Colonel Hancock Drive, Louisville, KY 40291

Summary of testimony of those in opposition:

01:13:00 Don Cox, the opposition's representative, briefly discussed some of the litigation surrounding this request. He discussed the letter and documents that were sent to the Board members. Primary concerns were parking; whether this is a private proprietary club or not; the compatibility of the proposed uses with the neighborhood; and noise levels from pickleball. He asked how it would be ensured that people using these facilities are members. He responded to questions from the Board members (see recording for detailed presentation and discussion.)

01:32:47 Joe Schweinhart said his concern is the wedding venue. He discussed uses that are not permitted in residential areas and expressed concerns about using the barn for large events, as well as parking (see recording for detailed presentation.)

01:36:25 Ron Huff, a member of the Glenmary Homeowner's Association, said the job of the Board is to maintain deed restrictions, and maintain common areas. He said the Board is not opposed to this proposed development. He said the Board is concerned about parking, noise, and how this use will be "policed". Particular concern is street parking (see recording for detailed presentation.) He said the golf club always shut down at 9:00 p.m.

Rebuttal:

01:42:17 Mr. McKenzie delivered rebuttal and responded to questions from the Board members (see recording.)

01:48:26 Laura Ferguson, legal counsel for the Board of Zoning Adjustment, proposed a Condition of Approval related to the concern about hours of operation, as follows:

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“The hours of operation of activities shall be limited to between 6:00 a.m. and 11:00 p.m.”

01:55:32 Board Members’ deliberation. Mr. French responded to questions from the Board members (see recording.)

01:59:07 In response to questions regarding parking and the wedding venue, Ms. Ferguson proposed the following Conditions of Approval:

“The accessory driving range is limited to a maximum of 4 tee boxes.”

“The wedding venue use shall be limited to events of no more than 200 people; or the maximum number of occupants allowed by the building / Life Safety Code, whichever is more restrictive.”

02:07:05 On a motion by Member Bond, seconded by Vice Chair Buttorff, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard at today’s meeting and on October 31, 2022, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is the redevelopment of a previous country club and golf course into a private proprietary club with accessory recreation areas; both uses are similar in nature and if managed appropriately would be compatible to surrounding residential development and would be in conformance with the comprehensive plan. Specifically, community form policy 1.3.1.3 related to the neighborhood form district; and

WHEREAS, the Board further finds that the proposal is for the redevelopment of a previous country club and golf course. Proposed changes do not include major construction and primarily incorporate the use of existing buildings and amenities. Therefore, the proposed club is compatible to surrounding development; and

WHEREAS, the Board further finds that necessary on-site and off-site public facilities such as transportation, sanitation, water, sewer, drainage, emergency services, education and recreation are adequate to serve the proposed use; and

WHEREAS the Board further finds that the proposal complies with the specific standards required to obtain the requested conditional use permit because:

4.2.44 Private Proprietary Clubs

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Private Proprietary Clubs may be located in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R- 6, R-7, OR-1, OR-2, OR-3, OTF, C-R or PTD Districts where such use is compatible in size and scale with surrounding land uses and where the lot contains at least 2 acres upon the granting of a Conditional Use Permit.

Tennis centers, racquetball clubs or similar operations requiring large structures to house the facilities shall have a development plan approved by the Planning Commission prior to filing an application for a Conditional Use Permit.

- A. All new buildings, structures and facilities shall be at least 30 feet from any property line.

Staff Analysis: Most of the buildings, structures and facilities are existing. However, the few facilities that are being added to the property will be at least 30 feet from a property line.

- B. Outdoor swimming pools shall be enclosed with a fence at least six feet high.

Staff Analysis: The applicant proposes a swimming pool on the property and the pool will be surrounded by a fence of at least 6 feet in height.

- C. All recreation areas or play fields and parking lots shall be separated from adjacent properties by a solid fence or dense evergreen shrubbery plantings at least five feet high.

Staff Analysis: The applicant proposes a 25-foot landscape buffer area along the perimeter of the property. A landscape plan is required for the property; a note on the plan requires the landscape plan to be filed to show compliance with chapter 10 of the LDC.

- D. One sign only may be permitted showing the name and address of the club. An attached sign shall not exceed 30 square feet in area, shall be attached flat to the face of the building, and shall not project more than 18 inches from the face of the building. A free-standing sign shall not exceed 20 square feet in area per side, shall not have more than two sides, and shall not exceed a height of six feet. Either an attached sign or a free-standing sign may be permitted, but not both. No sign shall project into any required yard. The sign may be illuminated but non-flashing.

Staff Analysis: The site plan does not show a sign on the property. However, the applicant has provided a note on the plan that signage shall be in conformance with this provision, 4.2.44.D. As noted in this report previously and in a proposed

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condition of approval, signage shall not be provided to advertise the restaurant or driving range as separate uses. These uses must remain incidental to the private club use.

Now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Conditional Use Permit for a private proprietary club in a residential zoning district; **SUBJECT** to the following Conditions of Approval:

Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a private institutional use until further review and approval by the Board.
3. The restaurant and golf driving range shall be incidental and accessory to the private propriety club.
4. Signage advertising the restaurant and driving range to the general public shall not be permitted. Interior signage for members may be permitted if not directed toward a public street.
5. The hours of operation of activities shall be limited to between 6:00 a.m. and 11:00 p.m.
6. The accessory driving range is limited to a maximum of 4 tee boxes.
7. The wedding venue use shall be limited to events of no more than 200 people; or the maximum number of occupants allowed by the building / Life Safety Code, whichever is more restrictive.

The vote was as follows:

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

ABSENT: Member Leanhart.

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PUBLIC HEARING

CASE NUMBER 22-CAT3-0014

Project Name:	1844 Northwestern Parkway
Location:	1844 Northwestern Parkway
Owner(s):	Pataluna Properties, LLC
Applicant:	QK4
Jurisdiction:	Louisville Metro
Council District:	5- Donna Purvis
Case Manager:	Clara Schweiger, Planner I

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

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

Agency testimony:

02:09:28 Clara Schweiger presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Ashley Bartley, Qk4, 1046 E Chestnut St, Louisville, KY 40204

Summary of testimony of those in favor:

02:14:07 Ashley Bartley, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

The following spoke in opposition of the request:

No one spoke.

02:17:31 Board Members' deliberation

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CASE NUMBER 22-CAT3-0014

Variance from 5.2.2 to allow for a 0' setback for the required rear yard (22-VARIANCE-0138)

02:19:55 On a motion by Member Vozos, seconded by Vice Chair Buttorff, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect the public health, safety or welfare because the proposed addition is located to the rear of the existing building and abuts an alley and the interstate; and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity because other structures in the area are situated in a similar manner and encroach into the rear setback; and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the proposed addition is located to the rear of the existing building and abuts the interstate; and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the addition is located to the rear of the existing building, abuts the interstate, and other structures in the area are situated in a similar manner and encroach into the rear setback; and

WHEREAS, the Board further finds that the applicant is encroaching into the required rear yard with the proposed addition because this is the area on the site that would allow for such expansion; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the applicant would not be permitted to construct the addition as proposed and expand their business; and

WHEREAS, the Board further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from 5.2.2 to allow for a 0' setback for the required rear yard (22-VARIANCE-0138).

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The vote was as follows:

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

ABSENT: Member Leanhart.

Waiver from 10.2.10 to eliminate the 5' LBA along the southwest property line (22-WAIVER- 0183)

02:20:42 On a motion by Member Vozos, seconded by Vice Chair Buttorff, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since a privacy fence will be installed to screen the adjacent property; and

WHEREAS the Board further finds that Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 6 calls to discourage non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential. Community Form Goal 1, Policy 9 calls 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. Community Form Goal 1, Policy 10 calls to mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should address issues such as outdoor lighting, lights from automobiles,

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illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Residential uses that develop adjacent to agricultural land uses may be required to provide screening and buffering to protect both the farmer and homeowners. Community Form Goal 1, Policy 12 calls for the proposal to 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. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes. Community Form Goal 1, Policy 20 calls to mitigate adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces. The proposal complies because the applicant is providing screening along the southwest property line between the proposed parking and residentially used property; and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the applicant is providing screening; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because without the waiver parking needed for the manufacturing business would not be possible; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Waiver from 10.2.10 to eliminate the 5' LBA along the southwest property line (22-WAIVER- 0183)

The vote was as follows:

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

ABSENT: Member Leanhart.

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Category 3 Development Plan (22-CAT3-0014)

02:20:42 On a motion by Member Vozos, seconded by Vice Chair 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 Category 3 Development Plan (22-CAT3-0014), **ON CONDITION** that the fee-in-lieu is implemented for the landscape buffer area trees.

The vote was as follows:

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

ABSENT: Member Leanhart.

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0134

Project Name:	Greten Lane Fence Variance
Location:	2407 Greten Lane
Owner:	Joseph John Magliocco
Applicant:	Bill Wilkinson
Jurisdiction:	Anchorage
Council District:	17 – Markus Winkler
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:

02:23:10 Amy Brooks presented the case, showed a Power Point presentation, and responded to questions from the Board Members (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Jeff McKenzie, Dentons Bingham Greenebaum, 101 S 5th St, Louisville, KY 40202

Summary of testimony of those in favor:

02:28:04 Jeff McKenzie, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

The following spoke in opposition of the request:

No one spoke.

02:30:52 Board Members' deliberation

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02:31:18 On a motion by Vice Chair Buttorff, seconded by Member Bond, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all building codes, including fire codes. The proposed fence will be set back 10 ft. from the property line and 30 ft. from the roadway and will not impact vision clearance; and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity; there are similar fences and gates located in the 2400 block of Greten Lane; and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the fence will be out of any applicable sight triangles and the applicant has documented support from both the Anchorage City Council and the City Zoning Officer; and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations. Most of the structure will adhere to the zoning regulations of Section 9.1.B.1. that restricts fence height to a maximum of 48 inches in the required front yard setback. However, there are several fences in the area that have a combination of fence with decorative portions and gates that exceed the prescribed height maximum. In fact, these types of fences are common within the City of Anchorage and reflect the historic pattern of fences within the city's residential localities; and

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

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant as the height of the fence could be reduced or the fence moved to meet the requirement; and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which

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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 **RECOMMEND** to the City of Anchorage that the requested Variance from the Anchorage Development Code section 9.1.B.1.a to allow a fence to exceed 48 inches in height in the Front yard setback (Requirement: 48 inches; Request: 66 inches to 104 inches; Variance: 18 inches to 56 inches.) be **APPROVED**.

The vote was as follows:

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

ABSENT: Member Leanhart.

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CASE NUMBER 22-CUP-0215

Project Name:	Hauck's Corner
Location:	1000 -1008 Goss Avenue
Owner(s):	FAP properties LLC
Applicant:	Angelica Pizzonia
Jurisdiction:	Louisville Metro
Council District:	15 – Kevin Triplett
Case Manager:	Joel Dock, AICP, Planning Coordinator

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

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

Agency testimony:

02:32:10 Joel Dock presented the case, showed a Power Point presentation, and responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Lindsey Stoughton, LMS Design, 816 Franklin Street, Louisville, KY 40206

Jeffrey Walschon, 1312 Texas Ave, Louisville, KY 40217

Angelica Pizzonia, 3702 Middell Court, Louisville, KY 40220 (signed in but did not speak)

Summary of testimony of those in favor:

02:40:02 Lindsey Stoughton, the applicant's representative, presented the applicant's case. She gave a brief overview of the property, the proposal, and responded to staff's comments (see recording for detailed presentation.)

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02:46:41 Jeffrey Walschon, who resides two blocks away from the site, spoke in support (see recording for detailed presentation.)

The following spoke in opposition to the request:

No one spoke.

02:50:57 Board Members' deliberation

02:56:07 On a motion by Member Bond, seconded by Member Ford, the following resolution, based on the Case summary, the staff report as modified during the staff presentation, and the proposed conditions of approval presented during the staff presentation, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that 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 proposed. Preliminary approval has been received from Louisville MSD and Transportation Planning; and

WHEREAS the Board further finds that outdoor alcohol sales and consumption and/or indoor live entertainment for a restaurant may be permitted in the C-1 zoning district upon the granting of conditional use permit and compliance with the listed requirements; and

WHEREAS, the Board further finds that

- A. All outdoor areas for the sale and consumption of alcohol must have designated boundaries.
- B. Outdoor dining areas within the public right-of-way must receive approval from the agency responsible for transportation engineering and shall be designed in accordance with agency standards.
- C. Outdoor dining areas adjacent to the public right-of-way shall contain a physical barrier that is at least three feet in height. The barrier should be designed to permit existing legal access from building to the adjacent public right-of-way.
- D. Outdoor dining areas that include the sale and consumption of alcohol within 50 feet of a residentially zoned or used property shall provide a six foot continuous screen as part of the designated boundary for the areas of the outdoor area

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within 50 feet of residentially used or zoned property. The continuous screen shall be in conformance with the Chapter 10, Part 4 (Implementation Standards).

- E. This conditional use permit shall be limited to restaurant uses in the C-1 that hold the following types of ABC licenses:
 - 1. Restaurant liquor and wine license by the drink for 100 plus seats
 - 2. Restaurant wine license by the drink for restaurants with seating for 100 and received at least 70 percent gross receipts from food sales
- F. The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 1 A.M.
- G. The entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).
- H. The Board may require additional and more restrictive requirements than those listed above based on the conditions of the specific location and the characteristics of the specific restaurant.

STAFF: The outdoor space has clearly defined boundaries marked by an ornamental fence and a 10' tall wood wall. The ornamental fence also provides a physical barrier from the right-of-way where a public sidewalk is present. There are no outdoor spaces within the public right-of-way that are part of the current request. The appropriate ABC license must be issued, and the use is limited to a restaurant only that serves alcohol outdoors. The ABC license will need to be revised to cover all the areas shown on the development plan.

Relief from item 'D' will allow for the existing ornamental fence to remain, which also identifies the boundaries for the space. The residence at 1315 Hoertz Avenue is roughly 40' from this boundary. The space in between contains an alley, bike parking, back-out parking, and utility space. Relief from item 'F' will allow an extra hour and extend the operation of the outdoor space until 2 a.m., Monday through Sunday. Operating hours should be closely tied to the preparation of food. 12 a.m. would be a more appropriate weekday closing time.

now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested **Conditional Use Permit** for outdoor alcohol sales and consumption and

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indoor live entertainment for a restaurant in the C-1, Commercial zoning district (LDC 4.2.41) with relief from items 'D' and 'F'; and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for outdoor alcohol sales and consumption until further review and approval by the Board.
3. All improvements proposed on the development plan for conditional use must be completed within 6 months of final approval by the Board, including but not limited to refuse collection and enclosures, bike parking, striped parking, no loading zones, and any required landscaping or tree canopy, unless otherwise approved by the Board.
4. Outdoor alcohol sales and consumption shall be restricted to the restaurant and food truck shown on the approved plan at 1000 Goss Avenue and 1004 Goss Avenue unless prior review and approval is received by the Board.
5. Outdoor alcohol sales and consumption shall cease at 12 a.m. Sunday through Thursday. Friday and Saturday operation shall conclude at 2 a.m.
6. Within 30 days of final approval by the Board, the applicant shall notify Planning and Design Service to document LDC compliant lighting, and that all outdoor entertainment has been removed.

The vote was as follows:

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

ABSENT: Member Leanhart.

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CASE NUMBER 22-CUP-0233

Project Name:	Greater Galilee Off-Street Parking
Location:	4000 W. Broadway
Owner(s):	Greater Galilee Church of Louisville
Applicant:	Eric A. Johnson
Jurisdiction:	Louisville Metro
Council District:	5 – Donna Purvis
Case Manager:	Joel Dock, AICP, Planning Coordinator

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

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

Agency testimony:

02:59:51 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Ashley Bartley, Qk4, 1046 E Chestnut St, Louisville, KY 40204

Eric A. Johnson, 3918 West Broadway, Louisville, KY 40211

William Cunningham, 6604 Timberbend Drive, Louisville, KY 40229

Brandon Hohalter, 12702 Willow Park Drive, Louisville, KY 40299

Mike Hines, 3108 Brownhurst Cove, Louisville, KY 40241

Summary of testimony of those in favor:

03:05:41 Ashley Bartley, the applicant's representative, presented the applicant's case, showed a Power Point presentation, and responded to questions from the Board members (see recording for detailed presentation.)

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03:12:35 Dr. Eric Johnson, the applicant, presented the case and explained the need for this project (see recording for detailed presentation.)

03:14:20 William Cunningham spoke in support and explained the need for this project (see recording for detailed presentation.)

03:15:54 Brandon Hohalter spoke in support of the improvements to this lot (see recording for detailed presentation.)

03:16:46 Mike Hines said he has a small foundation that supports projects in the West End, specifically those that help children & young people (see recording for detailed presentation.)

The following spoke in opposition to the request:

No one spoke.

03:18:21 Board Members' deliberation

Conditional Use Permit for off-street parking area (LDC 4.2.39)

03:20:49 On a motion by Member Vozos, seconded by Vice Chair Buttorff, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with applicable policies of the Comprehensive Plan, Plan 2040; and

WHEREAS, the Board further finds that 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 was formerly a service station. Impervious surfaces, gravel, and structures occupied most of the lot. Structures have been removed. The lot has served as an area for transient parking of vehicles for the institutional use across 40th Street since before the removal of the station and continues to serve that function. The proposal will formalize the area for parking and provide safe separation between vehicles and the public sidewalk; and

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WHEREAS, the Board further finds that 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 Board further finds that:

1. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

An Off-Street Parking Area may be permitted in a district where it is ordinarily prohibited, provided it serves a use in a building for which insufficient off-street parking space is provided, and where the provision of such parking space will materially relieve traffic congestion on the streets and when developed in compliance with the listed requirements.

- A. The area shall be located within 200 feet of the property on which the building to be served is located measured by the shortest walking distance (using sidewalks and designated crosswalks).
- B. Walls, fences, or plantings shall be provided in a manner to provide protection for and be in harmony with surrounding residential property.
- C. The minimum front, street side, and side yards required in the district shall be maintained free of parking.
- D. The area shall be used exclusively for transient parking of motor vehicles belonging to invitees of the owner or lessee of said lot.
- E. The approval of all plans and specifications for the improvement, surfacing, and drainage for said parking area will be obtained from the appropriate Director of Works prior to use of the parking area.
- F. The approval of all plans and specifications for all entrances, exits, and lights shall be obtained from the department responsible for transportation planning prior to the public hearing on the Conditional Use Permit.

STAFF: The off-street parking area is immediately opposite 40th Street from the institutional use it is proposed to serve. A safe crossing is available at 40th Street where it intersects Broadway.

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Decorative fencing and landscaping will be provided to delineate the space from the public sidewalk and provide safety to pedestrians while the parking area is in use. A variance has been requested to allow for encroachment into multiple yards. While the proposal is to encroach into these yards, the development appears to result in a reduction in the current encroachment of pavement into the side and front yards resulting from the former service station. The street side yard will be restored with development. The proposal will improve and formalize the space for off-street parking. While not in use for parking, the development will also allow for the institution to use the space for recreational activities, including basketball, and be covered for these activities. Plans have been preliminarily approved by Louisville MSD and Transportation Planning.

Now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Conditional Use Permit for off-street parking area (LDC 4.2.39), and does hereby **provide relief from Items C and D** based on the Staff Analysis on page 3 of the staff report, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval

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

The vote was as follows:

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

ABSENT: Member Leanhart.

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Variance from LDC, Section 5.2.2 to reduce the setback for the following yards:

Yard	Required (ft.)	Proposed (ft.)	Variance (ft.)
Front	15	1.2	13.8
Side	5	2.5	2.5
Rear	5	2.5	2.5

03:23:38 On a motion by Member Vozos, seconded by Vice Chair Buttorff, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the proposed setbacks do not interfere with the safe movement of people or vehicles or result in noxious uses being located inappropriately within proximity to residences. The adjacent property is elevated and will be screened to prevent headlights that may shine in the direction of the residence at 4008 W. Broadway; and

WHEREAS the Board further finds that the requested variance will not alter the essential character of the general vicinity. While the proposal is to encroach into these yards, the development appears to result in a reduction in the current encroachment of pavement into the side and front yards resulting from the former service station. Some landscaping will be provided and required screening will also be provided in these areas. The street side yard will be restored with development. The proposal will improve and formalize the space for off-street parking; and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed setbacks do not interfere with the safe movement of people or vehicles or result in noxious uses being located inappropriately within proximity to residences; and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the requested setback does adversely impact public health, safety, or welfare and no hazards or nuisances are created. Further, it is consistent with the character of the area; and

WHEREAS the Board further finds that the requested variances arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the property formerly housed a commercial use in a residential zoning district and impervious surfaces occupy much of the current land. It is also lowered below the

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grade of the adjacent residence. For the proposed use to be successful and serve the intended purpose, encroachments like the former service station have been proposed. Such encroachment appears to be a reduction in the current built conditions along the front and side property lines; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as the property could not be safely outfitted for off-street parking; and

WHEREAS, the Board further finds that 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 no development has occurred; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from LDC, Section 5.2.2 to reduce the setback for the following yards:

Front Yard: Required: 15 feet, Proposed: 1.2 feet; Variance of 13.8 feet
Side Yard: Required: 5 feet; Proposed: 2.5 feet; Variance of 2.5 feet
Rear Yard: Required: 5 feet; Proposed: 2.5 feet; Variance of 2.5 feet

The vote was as follows:

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

ABSENT: Member Leanhart.

Waivers:

(Waiver #1) Waiver of Land Development Code (LDC), Section 10.2.4 to waive the landscape buffer area along the west property line

(Waiver #2) Waiver of LDC, Section 10.2.10 to waive the vehicle use area landscape buffer along Broadway and the rear alley as shown on the development plan

(Waiver #3) Waiver of LDC, Section 5.5.1.3.a to not provide the 3' masonry wall for a surface parking lot

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03:25:00 On a motion by Member Vozos, seconded by Vice Chair Buttorff, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

(Waiver #1) WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as the reduction is consistent with existing conditions. The required landscape screen will be provided in the area and some landscaping. The property is also slightly elevated from the subject site, which assists in separating the residential use from the off-street parking area; and

WHEREAS, the Board further finds that the waiver will not violate specific guidelines of Plan 2040. Community form Goal 1, Policy seeks 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. Policy 12 calls for the parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. The reduced buffer is consistent with existing conditions. The required landscape screen will be provided in the area and some landscaping. The property is also slightly elevated from the subject site, which assists in separating the residential use from the off-street parking area; and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the subject property would not be able to be developed for the proposed use without relief from this landscape buffer which occupies nearly the entire width of the property; and

WHEREAS the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the reduced buffer is consistent with existing conditions. The required landscape screen will be provided in the area and some landscaping; and

(Waiver #2) WHEREAS, the Board further finds that the waiver will not adversely affect adjacent property owners as the encroachments formalize the space and provide proper functioning of the parking spaces and drive lanes; and

WHEREAS, the Board further finds that the waiver will not violate specific guidelines of Plan 2040. Community form Goal 1, Policy seeks 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

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restrictions and setback requirements. Policy 12 calls for the parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. The area of the VUA LBA towards the rear at the alley is the appropriate location for parking in traditional neighborhoods and no buffer appears necessary for an alley because of their use and function. The encroachment at the front is primarily for the drive lane providing access. Previously, access was open around the corner. The revision closes access across a sidewalk on the higher intensity road in exchange for a drive lane with an encroachment to 40th Street; and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant the request does not violate Plan 2040 or adversely impact adjacent residents; and

(Waiver #3) WHEREAS, the Board further finds that the waiver will not adversely affect adjacent property owners as the current conditions provide no vehicular control of the area and impervious surfaces extend from the existing adjacent rights-of-way. A delineation will be made along the parking lot in the form of a picket- style 3' tall fence and landscaping; and

WHEREAS; the Board further finds that the waiver will not violate specific guidelines of Plan 2040. Community form Goal 1, Policy seeks 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. Policy 12 calls for the parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. A delineation will be made along the parking lot in the form of a picket-style 3' tall fence and landscaping; and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as A delineation will be made along the parking lot in the form of a picket-style 3' tall fence and landscaping; and

WHEREAS the Board further finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect). The applicant proposes landscaping and a 3' picket-style fence in lieu-of the masonry required. A combination of

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fence and landscaping could provide the same effect and there are no structures at or near the right-of-way that demand a masonry wall of similar architectural detail; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested (Waiver #1) **Waiver** of Land Development Code (LDC), Section 10.2.4 to waive the landscape buffer area along the west property line; AND (Waiver #2) **Waiver** of LDC, Section 10.2.10 to waive the vehicle use area landscape buffer along Broadway and the rear alley as shown on the development plan; AND (Waiver #3) **Waiver** of LDC, Section 5.5.1.3.a to not provide the 3' masonry wall for a surface parking lot.

The vote was as follows:

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

ABSENT: Member Leanhart.

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CASE NUMBER 22-CUP-0250

Project Name: Happy Hounds Doggy Daycare and Boarding
Location: 201 Park Place Drive
Owner(s): 201 Park Place LLC
Applicant: 201 Park Place LLC
Jurisdiction: City of Middletown
Council District: 19 – Anthony Piagentini
Case Manager: Dante St. Germain, AICP, Planner II

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

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

Agency testimony:

03:28:48 Dante St. Germain presented the case, showed a Power Point presentation, and responded to questions from the Board members (see staff report and recording for detailed presentation). She noted that the Board may want to consider putting an additional Condition of Approval on the proposal, stating that any approval is conditional on the City of Middletown approving the revised detailed district development plan, because the City of Middletown has not considered it yet.

The following spoke in favor of the request:

Cliff Ashburner, Dinsmore & Shohl, 101 S 5th St #2500, Louisville, KY 40202

Missy Webb, 12107 Shelbyville Rd, Louisville, KY 40205

Mark Madison, Milestone Design Group, 108 Davenport Ln, Louisville, KY 40223 (signed in but did not speak; was available for questions.)

Summary of testimony of those in favor:

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03:33:11 Cliff Ashurner, the applicant's representative, presented the applicant's case, showed a Power Point presentation, and responded to questions from the Board members (see recording for detailed presentation.)

03:39:58 Missy Webb, an applicant's representative, responded to questions from the Board members regarding staffing, business hours, and operations (see recording for detailed discussion.)

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

03:42:21 Board Members' deliberation.

Conditional Use Permit for Commercial Kennel (4.2.16)

03:43:24 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 Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with Plan 2040. Existing structures will be re-used. The site is connected to Shelbyville Road, a major arterial, via a longstanding private access easement; and

WHEREAS, the Board further finds that the proposal is compatible with the area and form district as the current use of the site is a small amusement center. The site is generally surrounded by existing non-residential development, although a residential use is being developed to the south. The kennel portion of the site will be buffered from the residential use by the continued use of a portion of the site as a mini-golf course and go-cart track; and

WHEREAS, the Board further finds that MSD and Transportation Planning have approved the site plan prior to docketing of the case. A fire station is near the site and has access to the site via a private road (Marcus Avenue) without having to reach Shelbyville Road; and

WHEREAS, the Board further finds that:

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1. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

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

- A. Facilities Enclosed - All facilities, except parking, shall be within a totally enclosed building except where it can be demonstrated that a nuisance is not created thereby.
- B. Signs - Except in districts where signs are allowed, there shall be no more than one non- illuminated sign not to exceed 12 square feet in area and not to exceed 6 feet in height.
- C. Fences - A continuous fence at least 6 feet high shall be erected around the portion of the site used for the kennel operation.
- D. Screening – Any outdoor animal facilities shall be screened from view.
- E. Noise - The design of the structures shall include features that acoustically shield any animal noises from surrounding property.
- F. The applicant shall demonstrate adequate provisions to prevent surface water quality impacts due to animal wastes.

Staff: Existing structures are to be renovated to accommodate the proposed use. The applicant should address the other requirements and demonstrate compliance.

Now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested **Conditional Use Permit** for Commercial Kennel (4.2.16), **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.

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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. The City of Middletown must approve the Revised Development Plan.

The vote was as follows:

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

ABSENT: Member Leanhart.

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PUBLIC HEARING

CASE NUMBER 22-CUP-0280

Project Name:	3432 W. Market Street
Location:	3432 W. Market Street
Owner(s):	F&M, LLC
Applicant:	Fred Liggin
Jurisdiction:	Louisville Metro
Council District:	5 – Donna Purvis
Case Manager:	Joel Dock, AICP, Planning Coordinator

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

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

Agency testimony:

03:45:46 Joel Dock presented the case, showed a Power Point presentation, and responded to questions from the Board members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Fred Liggin, 102 Fontaine Landing Court, Louisville, KY 40212

Summary of testimony of those in favor:

03:51:45 Fred Liggin, the applicant, presented his case (see recording for detailed presentation.)

The following spoke in opposition to the request:

No one spoke.

03:56:09 Board Members' deliberation

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

CASE NUMBER 22-CUP-0280

Conditional Use Permit for Boarding House (LDC 4.2.11) with relief from items 'C' and 'J' of the standards

03:59:01 On a motion by Member Bond, seconded by Vice Chair Buttorff, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with applicable policies of the Comprehensive Plan, Plan 2040; and

WHEREAS, the Board further finds that 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, the Board further finds that 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 Board further finds that:

1. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

Boarding Houses may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7, R-8A, TNZD (Neighborhood Center), and TNZD (Neighborhood Transition-Center) districts upon the granting of a Conditional Use Permit and compliance with the following requirements. This section does not apply to any Residential Lodging House that may be permitted with special standards pursuant to Section 4.3.24 of this Land Development Code.

- A. A Boarding House in a single-family residential zoning district (R-R, R-E, R-1, R-2, R-3, R-4, R-5, or U-N) shall have a maximum of four (4) Boarders. A Boarding House in a multi-family residential zoning district (R-5A, R-5B, R-6, R-7, or R-8A) or TNZD (Neighborhood Center/Neighborhood Transition-Center only) shall have a maximum of eight (8) Boarders. In a Boarding

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House that is owner-occupied, the owner and members of his or her Family shall not be considered Boarders.

- B. A Boarding House additionally classified as a Boarding Home by Kentucky Revised Statutes and/or Kentucky Administrative Regulations shall comply with the standards for the operation of a Boarding Home, including but not limited to those provided in 902 KAR 20:350 and KRS Chapter 216B.
- C. Each Boarder shall have his or her own bedroom. Any such bedroom shall meet the current dimensional requirements and occupancy limitations set forth in LMCO Section 156.103.
- D. A Boarding House is for non-transient occupancy. The minimum intended stay for any Boarder shall be at least 30 consecutive days.
- E. A Boarding House may have a Boarder who manages the property and/or supervises the other Boarders on behalf of the property owner and/or operator. There shall not be any non-resident employee that works within the dwelling, with exception for employees that report to the property temporarily to address management or emergency issues.
- F. A Boarding House is a residential use. Nonresidential uses and services, including those that may be accessory, shall not be carried out within the dwelling unless otherwise permitted and approved as a separate use.
- G. There shall not be any outdoor signage which identified the Boarding House use.
- H. A Boarding House shall be in a location with reasonable access to public transportation.
- I. The required parking for the use is set forth in Chapter 9 of this Land Development Code. The BOZA may require additional parking if warranted.
- J. When reviewing a conditional use permit application for a Commercial Boarding House, the BOZA shall, to the best of its abilities, find that the establishment of the use will not result in harm to health, safety, or general welfare of the surrounding neighborhood. The property on which a Commercial Boarding House is situated shall not be located closer than 1,000 feet (measured in a straight line from nearest property line to nearest

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property line) to any property on which another Commercial Boarding House, Rehabilitation Home, or Transitional Housing use that has been approved by a conditional use permit is situated.

- K. A Boarding House shall meet the health, sanitation, structural, property maintenance, fire, and life safety requirements of any currently applicable federal, state, and local laws.
- L. For a complete application submittal for a Boarding House conditional use permit, in addition to the documentation required of all conditional use permit applications, the following additional information shall be provided:
 - 1. Type of resident population to be served, if any;
 - 2. Site plan and floor plans of any building subject to the use (showing the location and dimensions of all bedrooms);
 - 3. A written statement, plans, and/or permits indicating how any building subject to the application meets or will be adapted to meet all applicable building codes for the use if approved;
 - 4. The maximum number of Boarders; and
 - 5. Rules of conduct and management plan.

In the event a conditional use permit for a Boarding House is approved, any change to the foregoing information must be approved by the BOZA as a modification pursuant to Section 11.5A.1 of this Land Development Code.

- M. The operator(s) of a Boarding House shall maintain a registry of Boarders, which shall document the terms of stay of each Boarder. This registry shall be made available for inspection by a Zoning or Code Enforcement Officer in order to determine the total number of Boarders residing in the Boarding House at a given time and whether or not a term of stay is transient or not. However, under these provisions, the operator is not required to collect and/or maintain records that may be used for discriminatory purposes under the Fair Housing Acts, including but not limited to records relating to the race, religion, gender, national origin, family status and/or disability of any resident.
- N. A Boarding House shall not operate until it has been issued a license pursuant to LMCO Chapter 115 and, if required, a registration or license from the Commonwealth of Kentucky pursuant to KRS Chapter 216B.

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- O. Unlawful operation of a Boarding House without the required conditional use permit and/or license may constitute grounds for denial of an after-the-fact conditional use permit application for the Boarding House by the BOZA.
- P. If a Boarding House with an approved conditional use permit is subject to two (2) or more substantiated civil and/or criminal complaints within a 12 month period, the Planning Director may request that the BOZA revoke the conditional use permit in accordance with Section 11.5A.6 of this Land Development Code. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical code. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief.
- Q. An active license of the Boarding House, as required by LMCO Chapter 115, shall be maintained. No boarding may take place unless the license is active and in the name of the current operator and property owner. If the license is not renewed and lapses for six (6) months, or in the event of a change of ownership and/or operator, a new license is not issued within six (6) months from the date of the change, the conditional use permit shall become null and void. In order to recommence any Boarding House use, a new conditional use permit must be granted if required.

STAFF: The applicant has demonstrated or will be required to provide compliance with each of the lettered standards above, except where relief is requested for items 'C' and 'J'. The boarding home is allowed a maximum of 8 boarders. The occupancy proposed meets this standard, but each occupant will not be afforded their own room and relief is necessary to grant the CUP. The occupancy limitations per LMCO 156 are met for each room having multiple occupants. A management plan and "rules of the house" agreement have been provided to support the application. The minimum intended stay is 30 days as required by the standards. The agreement indicates a month-to-month stay. The subject property has reasonable access to public transportation as it is situated along a roadway with sidewalks and transit service. Off-street parking from the rear alley and on-street parking along W. Market Street are both available.

now, therefore be it

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

CASE NUMBER 22-CUP-0280

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Conditional Use Permit for Boarding House (LDC 4.2.11) **with relief from items 'C' and 'J' of the standards.**

The vote was as follows:

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

ABSENT: Member Leanhart.

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PUBLIC HEARING

CASE NUMBER 22-CUP-0281

Project Name:	3604 W. Market Street
Location:	3604 W. Market Street
Owner(s):	Fred Liggin
Applicant:	Fred Liggin
Jurisdiction:	Louisville Metro
Council District:	5 – Donna Purvis
Case Manager:	Joel Dock, AICP, Planning Coordinator

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

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

Agency testimony:

04:01:00 Joel Dock presented the case, showed a Power Point presentation, and responded to questions from the Board Members (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Fred Liggin, 102 Fontaine Landing Court, Louisville, KY 40212

Summary of testimony of those in favor:

04:05:19 Fred Liggin, the applicant, presented his case and responded to questions from the Board members (see recording for detailed presentation.)

The following spoke in opposition of the request:

No one spoke.

04:08:28 Board Members' deliberation

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PUBLIC HEARING

CASE NUMBER 22-CUP-0281

00:00:00 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:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with applicable policies of the Comprehensive Plan, Plan 2040; and

WHEREAS, the Board further finds that 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, the Board further finds that 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 Board further finds that:

1. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

Boarding Houses may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7, R-8A, TNZD (Neighborhood Center), and TNZD (Neighborhood Transition-Center) districts upon the granting of a Conditional Use Permit and compliance with the following requirements. This section does not apply to any Residential Lodging House that may be permitted with special standards pursuant to Section 4.3.24 of this Land Development Code.

- A. A Boarding House in a single-family residential zoning district (R-R, R-E, R-1, R-2, R-3, R-4, R-5, or U-N) shall have a maximum of four (4) Boarders. A Boarding House in a multi-family residential zoning district (R-5A, R-5B, R-6, R-7, or R-8A) or TNZD (Neighborhood Center/Neighborhood Transition-Center only) shall have a maximum of eight (8) Boarders. In a Boarding House that is owner-occupied, the owner and members of his or her Family shall not be considered Boarders.
- B. A Boarding House additionally classified as a Boarding Home by Kentucky Revised Statutes and/or Kentucky Administrative Regulations shall comply with

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the standards for the operation of a Boarding Home, including but not limited to those provided in 902 KAR 20:350 and KRS Chapter 216B.

- C. Each Boarder shall have his or her own bedroom. Any such bedroom shall meet the current dimensional requirements and occupancy limitations set forth in LMCO Section 156.103.
- D. A Boarding House is for non-transient occupancy. The minimum intended stay for any Boarder shall be at least 30 consecutive days.
- E. A Boarding House may have a Boarder who manages the property and/or supervises the other Boarders on behalf of the property owner and/or operator. There shall not be any non-resident employee that works within the dwelling, with exception for employees that report to the property temporarily to address management or emergency issues.
- F. A Boarding House is a residential use. Nonresidential uses and services, including those that may be accessory, shall not be carried out within the dwelling unless otherwise permitted and approved as a separate use.
- G. There shall not be any outdoor signage which identified the Boarding House use.
- H. A Boarding House shall be in a location with reasonable access to public transportation.
- I. The required parking for the use is set forth in Chapter 9 of this Land Development Code. The BOZA may require additional parking if warranted.
- J. When reviewing a conditional use permit application for a Commercial Boarding House, the BOZA shall, to the best of its abilities, find that the establishment of the use will not result in harm to health, safety, or general welfare of the surrounding neighborhood. The property on which a Commercial Boarding House is situated shall not be located closer than 1,000 feet (measured in a straight line from nearest property line to nearest property line) to any property on which another Commercial Boarding House, Rehabilitation Home, or Transitional Housing use that has been approved by a conditional use permit is situated.
- K. A Boarding House shall meet the health, sanitation, structural, property maintenance, fire, and life safety requirements of any currently applicable federal, state, and local laws.

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L. For a complete application submittal for a Boarding House conditional use permit, in addition to the documentation required of all conditional use permit applications, the following additional information shall be provided:

1. Type of resident population to be served, if any;
2. Site plan and floor plans of any building subject to the use (showing the location and dimensions of all bedrooms);
3. A written statement, plans, and/or permits indicating how any building subject to the application meets or will be adapted to meet all applicable building codes for the use if approved;
4. The maximum number of Boarders; and
5. Rules of conduct and management plan.

In the event a conditional use permit for a Boarding House is approved, any change to the foregoing information must be approved by the BOZA as a modification pursuant to Section 11.5A.1 of this Land Development Code.

M. The operator(s) of a Boarding House shall maintain a registry of Boarders, which shall document the terms of stay of each Boarder. This registry shall be made available for inspection by a Zoning or Code Enforcement Officer in order to determine the total number of Boarders residing in the Boarding House at a given time and whether or not a term of stay is transient or not. However, under these provisions, the operator is not required to collect and/or maintain records that may be used for discriminatory purposes under the Fair Housing Acts, including but not limited to records relating to the race, religion, gender, national origin, family status and/or disability of any resident.

N. A Boarding House shall not operate until it has been issued a license pursuant to LMCO Chapter 115 and, if required, a registration or license from the Commonwealth of Kentucky pursuant to KRS Chapter 216B.

O. Unlawful operation of a Boarding House without the required conditional use permit and/or license may constitute grounds for denial of an after-the-fact conditional use permit application for the Boarding House by the BOZA.

P. If a Boarding House with an approved conditional use permit is subject to two (2) or more substantiated civil and/or criminal complaints within a 12 month period, the Planning Director may request that the BOZA revoke the conditional use permit in accordance with Section 11.5A.6 of this Land Development Code. Civil complaints include, but are not limited to, reported violations of building, safety,

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property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical code. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief.

- Q. An active license of the Boarding House, as required by LMCO Chapter 115, shall be maintained. No boarding may take place unless the license is active and in the name of the current operator and property owner. If the license is not renewed and lapses for six (6) months, or in the event of a change of ownership and/or operator, a new license is not issued within six (6) months from the date of the change, the conditional use permit shall become null and void. In order to recommence any Boarding House use, a new conditional use permit must be granted if required.

STAFF: The applicant has demonstrated or will be required to provide compliance with each of the lettered standards above, except where relief is requested for items 'C' and 'J'. The boarding home is allowed a maximum of 8 boarders. The occupancy proposed meets this standard, but each occupant will not be afforded their own room and relief is necessary to grant the CUP. The occupancy limitations per LMCO 156 are met for each room having multiple occupants. A management plan and "rules of the house" agreement have been provided to support the application. The minimum intended stay is 30 days as required by the standards. The agreement indicates a month-to-month stay. The subject property has reasonable access to public transportation as it is situated along a roadway with sidewalks and transit service. Off-street parking from the rear alley and on-street parking along W. Market Street are both available.

now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Conditional Use Permit for Boarding House (LDC 4.2.11) **with relief from items 'C' and 'J'**, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.

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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 boarding house until further review and approval by the Board.
3. The maximum number of boarders shall not exceed 7, unless prior approval is received by the Board of Zoning Adjustment.
4. An active license of the Boarding House, as required by LMCO Chapter 115, shall be maintained.

The vote was as follows:

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

ABSENT: Member Leanhart.

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PUBLIC HEARING

CASE NUMBER 22-CUP-0291

Project Name:	Swan Street Short Term Rental
Location:	1214 Swan St
Owner(s):	Paige Davis
Applicant:	Glenn Davis
Jurisdiction:	Louisville Metro
Council District:	6- David James
Case Manager:	Amy Brooks, Planner 1

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

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

Agency testimony:

04:13:44 Amy Brooks presented the case, showed a Power Point presentation, and responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Paige Davis, 155 South 4th Street, Brooklyn, NY 11211

Glenn Davis, 1319 Hepburn Avenue, Louisville, KY 40204

Summary of testimony of those in favor:

04:18:06 Paige Davis, the property owner, presented the case and responded to questions from the Board members (see recording for detailed presentation.)

04:20:56 Glenn Davis, the applicant, also presented the case and gave reasons why he felt the Board should approve the request. He responded to questions from the Board members (see recording for detailed presentation.)

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CASE NUMBER 22-CUP-0291

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

04:30:32 Board Members' deliberation

04:40:34 On a motion by Member Ford, seconded by Member Horton, the following resolution, based evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that, as of the date of the staff report, there are four other units already in existence within the 600 foot radius, and there has not been sufficient information or justification to warrant waiving that rule; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the requested Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in R-6 Multi-family zoning and Traditional Neighborhood Form District.

The vote was as follows:

YES: Members Horton, Ford, Bond, and Vozos.

NO: Vice Chair Buttorff and Chair Howard.

ABSENT: Member Leanhart.

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PUBLIC HEARING

CASE NUMBER 22-CUP-0291

Project Name:	Short Term Rental
Location:	940 S. 6th St.
Owner(s):	Jonathan Pacilio
Applicant:	Jonathan Pacilio
Jurisdiction:	Louisville Metro
Council District:	6 – David James
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:

04:43:09 Amy Brooks presented the case, showed a Power Point presentation, and responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jonathan Pacilio, 940 South 6th Street, Louisville, KY 40203

Toni Boer, 6600 Shelburne Drive, Crestwood KY 40059

Jonathan Klunk, 950 S. 6th St, Louisville, KY 40203

Summary of testimony of those in favor:

04:47:29 Jonathan Pacilio, the applicant, presented his case and responded to questions from the Board members (see recording for detailed presentation.)

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CASE NUMBER 22-CUP-0291

04:55:20 Toni Boer introduced herself as Mr. Pacilio's real estate agent and further presented the applicant's case (see recording for detailed presentation.)

04:57:32 Jonathan Klunk introduced himself as a third-tier property owner who also represents the previous owners of the property. He responded to questions from the Board members (see recording for detailed presentation.)

The following spoke in opposition to the request:

Stephen Peterson, 932 South 6th Street, Louisville, KY 40203

Whitney Ditzhazy, 914 South 6th Street, Louisville, KY 40203

Jen Bidwell Meyer, 934 South 6th Street, Louisville, KY 40203

Summary of testimony of those in opposition:

05:06:38 Stephen Peterson discussed the surrounding neighborhood areas and also the parking issues, which he said will be exacerbated by a major subdivision coming across the street. He said this site is in the Limerick neighborhood, not the Old Louisville neighborhood, and the price of this house is more than 10 times the price of any other home in the area. He discussed the other short-term rental applications in the area, and said that he did not attend the neighborhood meeting for this proposal because he was attending another neighborhood meeting at the same time for a different STR proposal. He and Joe Haberman, Planning & Design Manager with Planning & Design Services, discussed the CUP process and the neighborhood meetings in detail (see recording for detailed discussion.)

05:21:55 Whitney Ditzhazy said her primary concerns are parking, the number of renters that would be staying there. She said that, since a property management company moved in, parking in the neighborhood is "abysmal". She said cars are regularly parked in the bus stop area and in the bike lanes. She expressed concern that an AirBnB this expensive is going to take the neighborhood regarding property values, and rental prices. She said she is "concerned and confused" as to why the seller applied for the short term rental permit, instead of the buyer. She said that bringing in something of this scale and price could drive out the people who have been here for a long time.

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05:28:26 Jen Bidwell Meyer said her concerns include parking, and the marketing for this business. She reiterated that this is not “Old Louisville”. There is only one business on a corner in the neighborhood, the rest are residential. She said the parking pad that was shown is actually smaller than it appeared in the applicant’s photos.

Rebuttal:

05:34:22 Mr. Pacilio presented rebuttal and responded to questions from the Board members (see recording for detailed presentation.)

Ms. Brooks and Mr. Haberman answered questions from the Board members regarding parking requirements, whether this site is in the Limerick neighborhood (it is) and whether there is a Limerick Neighborhood Plan (there is, but it has not been updated recently. Mr. Haberman said Limerick and Old Louisville have a shared neighborhood plan, although they are distinct, unique neighborhoods.. The SoBro Neighborhood is directly across the street from this property. (see recording.)

05:44:15 Board Members’ deliberation

05:48:10 Member Ford, seconded by Member Horton, made a motion to approve the Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in the TNZD and Traditional Neighborhood Form District, based on the Staff Findings, and evidence and testimony heard today, and including the Condition of Approval in the staff report.

The vote was as follows:

YES: Members Ford, Horton, and Howard.

NO: Members Bond, Vozos, and Buttorff.

ABSENT: Member Leanhart.

The vote was tied.

05:50:52 Additional Board Member deliberation.

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Laura Ferguson, legal counsel for the Board of Zoning Adjustment, and Mr. Haberman explained what happens if the vote is tied and how that is related to the Board's Bylaws (see recording for detailed discussion.)

06:02:15 The Chair accepts the tie vote, which means the request is denied.

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PUBLIC HEARING

CASE NUMBER 22-CUP-0255

Project Name:	Radiance Road Short Term Rental
Location:	3018 Radiance Road
Owner:	James Kaufman
Applicant:	Katrina Kaufman
Jurisdiction:	Louisville Metro
Council District:	26 – Brent Ackerson
Case Manager:	Chris French, Planning & Design Supervisor

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

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

Agency testimony:

06:06:20 Chris French presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Katrina and Jimmy Kaufman, 1005 Guinevere Court, Louisville, KY 40222

Summary of testimony of those in favor:

06:08:23 Katrina Kaufman and Jimmy Kaufman presented the case and responded to questions from the Board members (see recording for detailed presentation.)

06:11:10 Jimmy Kaufman said he and Katrina live very close to the property and can respond very quickly to issues.

The following spoke in opposition of the request:

No one spoke.

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PUBLIC HEARING

CASE NUMBER 22-CUP-0255

06:15:53 Board Members' deliberation

06:14:21 On a motion by Member Vozos, seconded by Vice Chair Buttorff, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal does not conflict with Comprehensive Plan policies; and

WHEREAS, the Board further finds that when appropriately managed, the proposed use is compatible with surrounding development and land uses; and

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

WHEREAS, the Board further finds that:

1. Does the proposal comply with the specific standards required to obtain the requested conditional use permit?

4.2.63 Short Term Rental Term Rental of a dwelling unit that is not the primary residence of the host or the Short Term Rental of a condominium unit that is the primary residence of the host in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 or R-8A district and Short Term Rental of any dwelling unit in a TNZD district may be allowed upon the granting of a Conditional Use Permit. In addition to any conditions of approval, a short term rental and its host shall meet the following requirements:

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental. ***The applicant has been informed of this requirement.***
- B. The dwelling unit shall be limited to a single short term rental contract at a time. ***The applicant has been informed of this requirement.***
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed

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property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals.

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

- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. ***As of the date of this report, within 600' of the subject property, there are no properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host.***
- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. ***The applicant has been informed of this requirement.***
- F. Food and alcoholic beverages shall not be served by the host to any guest. ***The applicant has been informed of this requirement.***
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts. ***The applicant has been informed of this requirement.***
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity.

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The applicant has stated that the existing driveway can accommodate up to 4 vehicles.

- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances. ***The applicant has been informed of this requirement.***
- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief. ***The applicant has been informed of this requirement.***
- K. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental pursuant to the Louisville Metro Code of Ordinances. If the short term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void. ***The applicant has been informed of this requirement.***
- L. An active registration for the short term rental, as required by the Louisville Metro Code of Ordinances, shall be maintained. No short term rentals may take place unless the registration is active and in the name of the current host and property owner. If the registration is not renewed and lapses for six months, or in the event of a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by this Land Development Code. ***The applicant has been informed of this requirement.***

Now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Conditional Use Permit to allow short term rental of a dwelling unit that is

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not the primary residence of the host in an R-5 zoning district and Neighborhood Form District, **SUBJECT** to the following Condition of Approval:

Condition of Approval:

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

The vote was as follows:

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

ABSENT: Member Leanhart.

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The meeting adjourned at approximately 7:36 p.m.

Chair

Secretary