

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

April 10, 2023

A meeting of the Louisville Metro Board of Zoning Adjustment was held on Monday, April 10, 2023 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky, and also via Webex.

Members Present:

Sharon Bond, Chair
Kim Leanhart, Secretary
Brandt Ford
Lula Howard
Yani Vozos
Jan Horton

Members Absent:

Richard Buttorff, Vice Chair

Staff Members Present:

Emily Liu, Director, Planning & Design Services
Brian Davis, Assistant Director, Planning & Design Services
Chris French, Planning & Design Supervisor
Joe Haberman, Planning & Design Manager
Heather Pollock, Planner I
Jay Lockett, Planner II
Molly Clark, Planner II
Amy Brooks, Planner I
Laura Ferguson, Legal Counsel
Chris Cestaro, Management Assistant (minutes)

The following cases were heard:

**BOARD OF ZONING ADJUSTMENT
MEETING MINUTES**

April 10, 2023

March 20, 2023 Board of Zoning Adjustment Meeting Minutes

00:04:23 On a motion by Member Howard, seconded by Member Ford, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the March 20, 2023 Board of Zoning Adjustment meeting.

The vote was as follows:

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

ABSENT: Vice Chair Buttorff.

March 27, 2023 Board of Zoning Adjustment Meeting Minutes

00:05:30 On a motion by Member Howard, seconded by Member Horton, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the March 27, 2023 Board of Zoning Adjustment meeting.

The vote was as follows:

YES: Members Howard, Horton, and Chair Bond.

ABSTAIN: Members Vozos, Leanhart, and Ford.

ABSENT: Vice Chair Buttorff.

**BOARD OF ZONING ADJUSTMENT
MEETING MINUTES**

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PUBLIC HEARING

Case No. 22-MCUP-0001

NOTE: The following case was heard out of order because a CONTINUANCE was being requested.

Request: A Modified Conditional Use Permit for a Scrap Metal Recycling and Storage Facility.
Project Name: River Metals Recycling
Location: 2110 Metal Ln, 2045 River Rd, 2114 Metal Ln, 2300 Metal Ln, 2255 Metal Ln, and 2601 River Green Cir.
Owner: River Metals Recycling, Inc.
Applicant: River Metals Recycling, Inc.
Representative: Nick Nicholson, Stoll Keenon Ogden, PLLC
Jurisdiction: Louisville Metro
Council District: 4 - Jecorey Arthur
Case Manager: Chris French, AICP, Planning Supervisor

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

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

Agency testimony:

00:07:00 Nick Nicholson, the applicant's attorney, has requested that this case be continued to the May 1, 2023 Board of Zoning Adjustment meeting.

00:00:00 On a motion by Member Howard, seconded by Member Leanhart, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** this case to the May 1, 2023 Board of Zoning Adjustment meeting.

The vote was as follows:

**BOARD OF ZONING ADJUSTMENT
MEETING MINUTES**

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PUBLIC HEARING

Case No. 22-MCUP-0001

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

ABSENT: Vice Chair Buttorff.

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BUSINESS SESSION

Case No. 23-VARIANCE-0018

Request: Variance to reduce to required front yard setback from 30 feet to 15 feet.
Project Name: Poplar Manor Variance
Location: 10 Poplar Manor Road
Owner: Murray Turner
Representative: Clifford Ashburner, Dinsmore & Shohl, LLP
Jurisdiction: City of Indian Hills
Council District: 16- Scott Reed
Case Manager: Amy Brooks, Planner I

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

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

Agency testimony:

00:08:55 Amy Brooks introduced the case, which was heard by the Hearing Officer (Lula Howard) at the March 27, 2023 Board of Zoning Adjustment meeting. Commissioner Howard continued the presentation as the Hearing Officer (see staff report and recording for detailed presentation.)

Variance from the City of Indian Hills Land Development Code Article 4.6.C.2.a to reduce the required front yard setback from 30 to 15 feet.

00:11:12 On a motion by Member Leanhart, seconded by Member Horton, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today from Member Howard, and testimony heard at the March 27, 2023, 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 15- foot setback will not impede the safe movement of pedestrians or vehicles along Poplar Manor Rd. The reduction in setback will be internal to the site itself, as well,

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Case No. 23-VARIANCE-0018

thereby not affecting any setback adjacent to the more-traveled Blankenbaker Lane;
and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the reduced front yard setback is internal to this specific subdivision; thus, any future development on the parcels would be built to this new reduced setback thus establishing a consistent and complementary pattern. There is also other clustered development in Indian Hills that subscribes to a less than 30-foot setback on land with similar topography; and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the requested reduced front yard setback will increase the distance future residential structures will be built from adjacent single-family development; and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the individual lots have environmental constraints, including steep slope which restricts the ability to develop the property; and

WHEREAS, the Board further finds that the requested variance does arise from special circumstances which do not generally apply to land in the general vicinity because the land has natural contours that limit its development; 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 property has existing conditions that make providing the required 30-foot front yard setback rather difficult; 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 the variance and has not begun construction; and

WHEREAS, the Board further finds that the requested variance will not adversely affect the public health, safety or welfare, and will not alter the essential character of the general vicinity and will not cause a hazard or a nuisance to the public because the front yard setback is internal to the site itself and future development will comply with all applicable building regulations and the Land Development Code, except where relief is requested; now, therefore be it

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Case No. 23-VARIANCE-0018

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from the City of Indian Hills Land Development Code Article 4.6.C.2.a to reduce the required front yard setback from 30 to 15 feet.

The vote was as follows:

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

ABSENT: Vice Chair Buttorff.

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Case No. 23-VARIANCE-0019

Request: Variance from LDC Section 5.3.1 to allow the proposed single family home to exceed the maximum height of 35 ft.
Project Name: Riverside Drive Variance
Location: 914 W Riverside Drive
Owner: Ernestina Toledo Martin
Applicant: Ernestina Toledo Martin
Representative: Ernestina Toledo Martin
Jurisdiction: Louisville Metro
Council District: 16-Scott Reed
Case Manager: Molly Clark, Planner II

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

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

Agency testimony:

00:12:44 Molly Clark introduced the case, which was heard by the Hearing Officer (Lula Howard) at the March 27, 2023 Board of Zoning Adjustment meeting. Commissioner Howard continued the presentation as the Hearing Officer (see staff report and recording for detailed presentation.)

00:13:41 In response to questions from Member Howard, Joe Haberman, Planning & Design Manager, said that staff was not able to go to the site and do a physical survey of the heights of other buildings in the area. However, staff did look at the heights on Google. Because many new buildings are required to be elevated, that was a key reasoning for the applicant to request the variance. He said the proposed building is generally in keeping with the heights of neighboring structures. See recording for detailed discussion.

Variance from Land Development Code Table 5.3.1 allow a proposed single-family house to exceed the max height of 35 ft.

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Case No. 23-VARIANCE-0019

00:15:50 On a motion by Member Howard, seconded by Member Horton, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today and at the March 27, 2023 BOZA meeting, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all applicable building codes and the Land Development Code, except where relief is requested; and

WHEREAS, the Board further finds that, throughout the existing subdivision the subject site is located in, a majority of the homes are elevated and built taller than the maximum height due to the floodplain and close proximity to the Ohio River; and

WHEREAS, the Board further finds that the addition will not cause a hazard or nuisance to the public since it is required to meet all applicable requirements of the building code; and

WHEREAS, the Board further finds that the height variance will not be an unreasonable circumvention of the zoning regulations since there are other structures in the neighborhood that exceed the maximum height of the form district due to location within the floodplain and being in close proximity to the Ohio River; and

WHEREAS, the Board further finds that the requested variance does arise from special circumstances which do generally apply to land in the general vicinity or the same zone because this property is located in a subdivision that was created and built before zoning regulations. The lot is the same size and shape in comparison to the surrounding properties. The subject site is also located in the floodplain and within close proximity to the Ohio River; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since the subject site is located in the floodplain and within close proximity of the Ohio River. If the variance is not granted the applicant cannot alter the plan to build in the floodplain. The applicant must build to the proposed height according to the floodplain ordinance; 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 has not begun construction; now, therefore be it

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Case No. 23-VARIANCE-0019

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from Land Development Code Table 5.3.1 allow a proposed single-family house to exceed the max height of 35 ft.

The vote was as follows:

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

ABSENT: Vice Chair Buttorff.

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Case No. 23-VARIANCE-0032

Request: Variance to allow an addition to encroach into the side yard setback.
Project Name: Swing Lane Variance
Location: 429 Swing Lane
Owner: Scott Powell
Applicant: Clifford Ashburner
Jurisdiction: Louisville Metro
Council District: 16- Scott Reed
Case Manager: Amy Brooks, Planner I

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

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

Agency testimony:

00:17:06 Amy Brooks introduced the case, which was heard by the Hearing Officer (Lula Howard) at the March 27, 2023 Board of Zoning Adjustment meeting. Commissioner Howard continued the presentation as the Hearing Officer (see staff report and recording for detailed presentation.)

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

00:18:25 On a motion by Member Howard, seconded by Member Ford, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today and at the March 27, 2023 BOZA meeting, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all applicable building regulations and the Land Development Code, except where relief is requested. In addition, the applicant

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has submitted written consent of the adjoining property owners more affected by the proposal; and

WHEREAS, the Board further finds that the requested variance will not alter the essential, visual character of the general vicinity as the addition and its location on the lot will be in character with the surrounding residential neighborhood. Several homes in the subdivision encroach into the required minimum side yard setbacks. These homes are located at 417 and 420 Club Lane; and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as there are other homes within the surrounding blocks that also encroach into the required setbacks. In fact, the adjoining property owner to the north at 3600 Basswood was approved for a side yard setback variance under B-164-99; 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 as the lot is similar in size and shape as the surrounding properties; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship as the proposed addition is aligned with the current footprint of the home which is already encroaching into the required side yard; 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 has not yet started construction and has applied for a variance; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from the Land Development Code Table 5.3.1 to allow a structure to encroach into the side yard setback.

The vote was as follows:

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Case No. 23-VARIANCE-0032

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

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BUSINESS SESSION

Case No. 23-VARIANCE-0035

Request: Variance from LDC Section 5.1.12 to allow the proposed structure to exceed the 105 foot front yard infill setback by 70 feet for a requested setback of 175 feet.

Project Name: Landis Lakes Outlot
Location: 101 S English Station Rd
Owner: Ronald Tritschler
Applicant: Ronald Tritschler
Representative: Theodore Bernstein
Jurisdiction: Louisville Metro
Council District: 11 - Kevin Kramer
Case Manager: John Michael Lawler, Planner I

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

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

Agency testimony:

00:19:18 Member Howard, the Hearing Officer when this case was presented at the March 27, 2023 BOZA meeting, discussed the case (see staff report and recording for detailed presentation.)

Variance from LDC Section 5.1.12 to allow the proposed structure to exceed the 105 foot front yard infill setback by 70 feet for a requested setback of 175 feet.

00:20:45 On a motion by Member Howard, seconded by Member Horton, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today and at the March 27, 2023 BOZA meeting, 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 since the building will be incorporated into an existing development. The lot was left vacant with parking facilities already in-place for the future development of the site; and

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WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the proposal is part of an existing suburban retail development. The lot was shown on the original approval with structures setback 60 feet more than the surrounding buildings. There are also varying setbacks among structures along S English Station Rd and Shelbyville Rd to the North; and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the building will be directly integrated into an existing retail development on an existing open lot without removing existing site improvements. Structures were planned from the beginning to be varied in their setbacks; and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the site is being developed as intended and previously approved by the Planning Commission. The vacant land that is being built on was previously approved for development that would have structures that did not conform with the infill regulations once the structures to either side were built; and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity because the site is part of a prior development approval where the approved structures and facilities dictated the placement of the buildings now; and

WHEREAS, the Board further finds that the applicant is developing the land as it was originally approved by the Planning Commission. Existing site improvements dictate the placement of the structure on the site.

Disruption of these constraints would cause a hardship on the applicant and surrounding uses due to the interconnected nature of the development. It would also necessitate a costly and wasteful reconfiguration of parking facilities and access point to S English Station Road; and

WHEREAS, the Board further finds that the circumstances are not the result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought. The lot is still vacant; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from LDC Section 5.1.12 to allow the proposed structure to

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Case No. 23-VARIANCE-0035

exceed the 105 foot front yard infill setback by 70 feet for a requested setback of 175 feet.

The vote was as follows:

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

ABSENT: Vice Chair Buttorff.

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BUSINESS SESSION

Case No. 22-MCUP-0014

Request: A Modified Conditional Use Permit for a private institutional use to allow a new parking area and Junior Academy.
Project Name: Christian Academy of Louisville English Station Campus
Location: 700 S. English Station Road
Owner: Christian Academy of Louisville Inc
Applicant: Stephen French
Representative: Marv Blomquist
Jurisdiction: Louisville Metro
Council District: 11 - Kevin Kramer
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:

00:22:06 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 and discussion.)

Modified Conditional Use Permit for a private institutional use to construct a proposed Junior Academy building and additional parking spaces.

00:25:26 On a motion by Member Leanhart, seconded by Member Howard, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal meets all applicable policies of the Comprehensive Plan; and

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

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WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed the proposal; 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?

Private institutional uses, except for such uses specifically regulated elsewhere in this LDC, may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N zoning districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

- A. Except in the R-R zoning district, all structures, except fencing, and all off-street parking shall be at least 30 feet from any property line adjacent to an existing residential use or residential zoning district. In the R-R zoning district all structures, except fencing, shall be at least 150 feet from any property line and all off-street parking shall be at least 30 feet from any property line. ***The site is in the R-4 Single-Family residential zoning district; the proposed building and off-street parking are more than 30 feet from all the property lines.***
- B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated. ***The proposal has received preliminary approval from Transportation Planning .***
- C. Off-street parking not located within a driveway shall be located to the side or rear of the building(s). The number of required off-street parking spaces shall be determined by the Planning Director in consultation with the Director of Public Works based on the standards for the closest comparable use and on the particular parking demand and trip generation characteristics of the proposed use. ***Off-Street parking is located at the rear of the proposed building; Transportation Planning has given preliminary approval for the proposal***
- D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99). ***Activities will comply with the noise ordinance.***

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- E The Board of Zoning Adjustment may set hours of operation for the institutional use in order to minimize potential negative impacts on surrounding residential properties. ***Staff has not received any comments regarding the need to address hours of operation.***

now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Modified Conditional Use Permit for a private institutional use to construct a proposed Junior Academy building and additional parking spaces, **SUBJECT** to the following Conditions of Approval:

Conditions of Approval

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

The vote was as follows:

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

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PUBLIC HEARING

Case No. 23-VARIANCE-0023

Request: **THIS CASE WILL BE CONTINUED TO A DATE UNCERTAIN** - Variances to allow a principal structure into the encroach into the front and side yard setbacks.

Project Name: Newburg Road Triplex Variance

Location: 1911 Newburg Road

Owner: Ticonderoga Equity LLC

Applicant: Zachariah Montgomery

Jurisdiction: Louisville Metro

Council District: 8-Benjamin Reno-Weber

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:

00:26:26 Amy Brooks said this case will be continued to a date uncertain because staff is waiting for a revised site plan and a waiver application from the applicant.

00:26:54 On a motion by Member Howard, seconded by Member Leanhart, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** this case to a date uncertain.

The vote was as follows:

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

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PUBLIC HEARING

Case No. 22-VARIANCE-0167

Request: A variance to allow a proposed lot to have less than 20% private yard area.
Project Name: Algonquin Parkway Variance
Location: 1740 Algonquin Parkway
Owner: Closky Properties, LLC
Applicant: Todd Willett, Willett & Associates Land Surveying, INC.
Jurisdiction: Louisville Metro
Council District: 3 - Kumar Rashad
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:

00:28:10 Molly Clark presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation). This case was **continued** from the **March 20, 2023 BOZA meeting**.

00:31:10 In response to questions from Member Howard, Ms. Clark said the proposed structure will be accessed off the alley. The front door will be facing McClosky.

The following spoke in favor of the request:

Todd Willett, 7329 St. Andrews Church Road, Louisville, KY 40214

Prince Mathew, 3408 Stara Court, Louisville, KY 40299

Summary of testimony of those in favor:

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00:32:03 Prince Mathew, the applicant's representative, presented the applicant's case and responded to questions from Member Howard (see recording for detailed discussion.)

00:33:39 Todd Willett, the surveyor, said he was available to answer questions.

00:34:52 Member Howard, Ms. Clark, and Laura Ferguson, legal counsel for the Board, discussed the process needed to create a substandard lot.

The following spoke in opposition to the request:

No one spoke.

00:36:42 Board Members' deliberation

Variance from Land Development Code section 5.4.1.D.2 to allow a private yard area to be less than the required 20% of the area of the lot.

00:37:14 On a motion by Member Leanhart, seconded by Member Howard, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today and at the March 20, 2023 BOZA meeting, was adopted:

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

WHEREAS, the Board further finds that the proposed private yard area reduction will not alter the essential character of the general vicinity as many properties in the area seemingly have reduced private yard areas since the neighborhood was constructed before zoning regulations; and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed accessory structure being converted into a single family home will comply will all other regulations,

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except where relief is requested, and there are other properties within the block that have seemingly reduced open space between the principal and accessory use areas; and

WHEREAS, the Board further finds that the requested variance does arise from special circumstances which do not generally apply to the land in the general vicinity or the same zone as the proposed lots are 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 create an unnecessary hardship on the applicant as the applicant is requesting to create substandard lots in order to create additional housing on the site; 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 has not converted the accessory structure into a house; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from Land Development Code section 5.4.1.D.2 to allow a private yard area to be less than the required 20% of the area of the lot (requirement is 706 sf; request is 201 sf; the variance is 504 sf).

The vote was as follows:

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

ABSENT: Vice Chair Buttorff.

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PUBLIC HEARING

Case No. 22-CUP-0402

Request: **CONTINUED from the March 20, 2023 BOZA Meeting -**
Conditional Use Permit for an accessory dwelling unit
Project Name: Tyler Lane Accessory Dwelling Unit
Location: 2215 Tyler Lane
Owner/Applicant: Robert and Anne Kluttz
Representative: Cliff Ashburner
Jurisdiction: Louisville Metro
Council District: 8 - Vacant
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:

00:39:17 Amy Brooks presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation).

00:43:36 In response to questions from Member Leanhart, Ms. Brooks explained that, under Condition of Approval #3, both the primary structure (the house) and the existing accessory dwelling unit can only be rented under one lease, not under multiple leases (not subletting).

The following spoke in favor of the request:

Cliff Ashburner, Dinsmore & Shohl, 101 South 5th Street Suite 2500, Louisville, KY 40202

Summary of testimony of those in favor:

00:44:43 Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

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00:52:11 In response to a question from Member Howard, Mr. Ashburner said he would supply a copy of the lease to staff and that exhibit be put into the case file.

The following spoke in opposition to the request:

Gloria Thomas, 2213 Tyler Lane, Louisville, KY 40205

Tom Weaver, 2224 Tyler Lane, Louisville, KY 40205

Mary Allen Peake, 2216 Tyler Lane, Louisville, KY 40205

Tim Schroering, 2312 Winston Avenue, Louisville, KY 40205

Summary of testimony of those in opposition:

00:52:43 Gloria Thomas, an adjacent property owner, discussed the tenants and the condition of the property. She said the applicant owns about 80 properties in Louisville, and discussed code enforcement violations/property maintenance issues on the owner's sites. (See recording for detailed presentation.)

00:55:51 In response to questions from Member Leanhart, Ms. Thomas described the two times she had met the owner of the property (see recording.)

00:56:51 Tom Weaver said that, when the applicant was "re-doing the garage", the applicant did not have a plumbing permit, electrical permit, or a permit from MSD. He said Code Enforcement stopped the work and described his conversation with the officer who was responding. Mr. Weaver said he did not think the property had been adequately inspected; that this site is "a detriment" to the neighborhood; and is concerned about setting a precedent in the neighborhood.

00:59:47 Member Vozos and Mr. Weaver discussed Mr. Weaver's concerns about setting a precedent on this street.

01:01:05 Mary Allen Peake said there is a history of bad maintenance with this landlord/applicant; the applicant does not have occupancy permits; and she is opposed to more rental property in the neighborhood.

01:02:56 Tim Schroering, current Mayor of Strathmoor Village, discussed some issues that the City has had with the applicant, and asked who will be overseeing this

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property. He said he does not believe that the applicant will come back before the Board if he wants to lease the garage separately from the house.

Rebuttal:

01:06:56 Mr. Ashburner presented rebuttal (see recording for detailed presentation.) He addressed Code Enforcement violations and permits.

01:11:23 Howard – Ashburner said the inspections have been done and approved. The Certificate of Occupancy has been applied for, but it will not be granted unless this Board approves this request. Member Howard and Mr. Ashburner discussed the appearance and maintenance of the property, and the garage structure.

01:14:00 Member Horton and Mr. Ashburner discussed rent (see recording.)

01:14:26 In response to questions from Member Leanhart, Mr. Ashburner confirmed that the applicant purchased the property in 2021 and started converting the garage in 2022. Mr. Ashburner said the applicant was under the impression that the area above the garage was permitted to be finished. Inspections were obtained in 2022. Mr. Ashburner also spoke about neighbors' concerns that the use has been continued after they called Code Enforcement (see recording for detailed discussion.) The accessory structure does not yet have its own address. Sewer and water connections are hooked into the primary structure.

01:16:42 In response to questions from Chair Bond, Mr. Ashburner discussed the inspections. Joe Haberman, Planning & Design Manager, said there is an open zoning Enforcement case which is dependent on the outcome of today's hearing (see recording).

01:17:49 Chair Bond and Member Howard discussed the maintenance of the accessory dwelling unit and the grounds. Member Howard and Ms. Brooks discussed the photos shown today of the accessory unit. Ms. Brooks said neighbors had also discussed the issues with her which were raised today.

01:19:46 Board Members' deliberation

01:25:17 The Board and Laura Ferguson, legal counsel for the Board, discussed relief of Item J (see recording.)

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01:26:42 The third Condition of Approval, which was shown at the March 20, 2023 BOZA meeting, was read into the record, as follows:

3. The principal dwelling unit and the accessory dwelling unit shall only be rented/leased to a single party; they cannot be rented or occupied by separate parties concurrently at any time. However, when the property owner's primary residence is within one of the two units on the subject property the second unit may be leased to a separate party.

01:31:09 On a motion by Member Howard, seconded by Member Leanhart, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today and at the March 20, 2023 BOZA meeting, was adopted:

WHEREAS, the Louisville Metro Board of 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?

Accessory dwelling units that do not meet the provisions of Section 4.3.27 may be allowed in the R- R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N districts upon the granting of a conditional use permit and compliance with the listed requirements. All special standards outlined within Section 4.3.27 are met unless relief is granted by the Board. Applications requesting relief from special standards in Section 4.3.27 shall provide written justification demonstrating the reasons why relief should be granted and how such relief would retain the accessory nature of the dwelling unit.

A. One ADU, either attached or detached is permitted per single family dwelling per lot. ***The applicant has been informed of this requirement. There is an***

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apartment on the second floor of the detached garage.

B. Maximum ADU Size: 800 square feet or 30 percent of the gross floor area of the principal structure, whichever is greater. ***The accessory dwelling unit on the 2nd floor is 588 square feet.***

C. Location Requirements:

1. For an attached ADU, the yard or setback requirements of the principal structure shall be met. The attached ADU shall be located either to the side or behind the principal structure.
2. For a detached ADU, the yard or setback requirements of an accessory structure shall be met. The detached ADU shall be located either to the side or behind the principal structure. ***The applicant is converting an existing garage that is located behind in the principal structure into an ADU.***

D. ADU Access:

1. For an attached ADU, an exterior staircase used to access a second story or higher ADU shall not be located on the front façade of the structure.
2. For a detached ADU, the exterior pedestrian entrance to the ADU shall be located facing the principal structure or side yard. ***The applicant has been informed of this requirement.***

E. Maximum Height:

1. For an attached ADU, the maximum height shall not exceed the height of the principal structure.
2. For a detached ADU, the maximum height shall not exceed the maximum height permitted for an accessory structure in accordance with Chapter 5 of the LDC. The maximum height shall not exceed the height of the principal structure. ***The height of the existing accessory structure does not exceed the height of the principal structure on the lot.***

F. ADUs approved under this provision shall not be used as a short term rental. ***The applicant is not proposing to use the ADU for short term rentals.***

G. Any property that has been subject to a zoning, property maintenance, or building code violation(s) in the 12 months prior to application shall be reviewed and approved by the directors of Planning & Design Services and Codes & Regulations, or their designees. Any violations shall be resolved prior to approval. ***The applicant has been informed of this requirement. The applicant will be required to obtain a building permit. The applicant also has received***

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preliminary approval from both MSD and transportation.

H. Off-street parking shall meet the requirements of Chapter 9 of the LDC. ***The applicant has been informed of this requirement.***

I. ADUs that include new construction that results in habitable floor area (for example, additions to principal structures or new accessory structures) shall not be allowed on any areas of lots that contain environmental constraints (LDC Section 4.6.2.A) ***The applicant has been informed of this requirement.***

J. The owner of the property shall reside within either the principal or the accessory dwelling unit. ***The Board does hereby provide relief from Item J because of the added Condition of Approval #3.***

K. To avoid any confusion, since there is no language to the contrary, this section does not override any deed restriction or homeowners' association declarations restricting accessory dwelling units. ***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 an Accessory Dwelling Unit in the R-4 Single Family zoning district and the Neighborhood form district. (LDC 4.2.3), and does hereby provide relief from Item J because of the added Condition of Approval #3, 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 an accessory apartment without further review and approval by the Board.

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3. The principal dwelling unit and the accessory dwelling unit may only be rented/leased to a single party; they cannot be rented or occupied by separate parties concurrently at any time. However, when the property owner's primary residence is within one of the two units on the subject property the second unit may be leased to a separate party.

The vote was as follows:

YES: Members Howard, Vozos, Leanhart, Ford, and Chair Bond.

NO: Member Horton.

ABSENT: Vice Chair Buttorff.

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Case No. 22-VARIANCE-0174

Request: Category 3 Development Plan with a variance and waiver(s)
Project Name: Louisville Community Grocery
Location: 400 Finzer St
Owner: Louisville Association for Community Economics
Applicant: Louisville Association for Community Economics
Jurisdiction: Louisville Metro
Council District: 4 - Jecorey Arthur
Case Manager: Jay Luckett, AICP, Planner II

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

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

Agency testimony:

01:33:44 Jay Luckett presented the case, showed a Power Point presentation, and responded to questions from the Board members (see staff report and recording for detailed presentation).

01:40:30 In response to a question from Member Howard, Mr. Luckett confirmed that townhomes are located on the property to the south.

The following spoke in favor of the request:

Nathan Wright, Mindel Scott, 5151 Jefferson Boulevard, Louisville, KY 40219

Summary of testimony of those in favor:

01:41:17 Nathan Wright, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:47:30 In response to questions from Chair Bond, Mr. Wright confirmed that there would be a community meeting room and associated space for other businesses or

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offices. He said the applicant is within the parking threshold but requested the waiver to accommodate the associated community uses. There is a TARC stop and on-street parking also available.

The following spoke in opposition to the request:

No one spoke.

01:49:03 Board Members' deliberation

Variance from Land Development Code section 5.5.1.A.2 to exceed the maximum 5-foot setback

01:49:42 On a motion by Member Vozos, seconded by Member Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect public health safety or welfare as the variance will facilitate the construction of a neighborhood serving grocery. The variance area is proposed to provide outdoor space for seasonal items and fresh produce which serves the public health and welfare; and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity, as the proposed development will provide a neighborhood serving commercial use that fits within the context of the Traditional Neighborhood Form District; and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the building will be constructed according to the building code, including all safety and health related provisions. MSD and Transportation Planning have approved the preliminary plan and will ensure safety through the construction permitting process; and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations since the additional setback area will still be used in a way that meets the intent of the regulations by providing outdoor seasonal and produce sales; and

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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; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land, as they would not be able to provide an adequate outdoor space for seasonal items and fresh produce display; 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 approval prior to construction; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested **Variance** from Land Development Code section 5.5.1.A.2 to exceed the maximum 5-foot setback.

The vote was as follows:

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

ABSENT: Vice Chair Buttorff.

Waiver #1 from Land Development Code section 5.5.1.a.3 permit the parking lot to be further towards the street than the structure along Finzer St.

Waiver #2 from Land Development Code section 5.6.1.C.1 to permit the E Jacob St façade to be less than 50% clear glass windows.

01:50:46 On a motion by Member Vozos, seconded by Member Howard, 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 adjacent lot is vacant and fully paved for parking. The applicant is providing required connection to facilitate future development of that property; and

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WHEREAS, the Board further finds that the waiver will not violate specific guidelines of Plan 2040 as safe vehicular and pedestrian circulation have been provided for in and around the site. The waiver would facilitate the redevelopment of a disused parking lot for a neighborhood serving grocery store; 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 all required screening will be provided, and the parking lot meets all other standards of the Land Development Code; 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 they would not be able to provide adequate parking including ADA parking without the relief being granted; and

(Waiver #2) WHEREAS, the Board further finds that the waiver will not adversely affect adjacent property owners, as the applicant will provide landscaping and screening along the blank area of the wall; and

WHEREAS, the Board further finds that the waiver will not violate specific guidelines of Plan 2040 as all other aspects of building design have been met on the proposed structure. The waiver would facilitate the redevelopment of a disused parking lot for a neighborhood serving grocery store; 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 they have provided windows and an entrance along the portion of the E Jacob St façade where feasible for their internal building layout; 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 they have frontage along 3 public streets. The applicant has proposed doors and windows to the greatest extent practicable along the 3 frontages. The rear portion of the building along E Jacob will contain storage and utility areas which do not need to be visible from the street; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested **Waiver #1** from Land Development Code section 5.5.1.a.3 permit the parking lot to be further towards the street than the structure along Finzer Street; **AND**

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the requested **Waiver #2** from Land Development Code section 5.6.1.C.1 to permit the E Jacob St façade to be less than 50% clear glass windows.

The vote was as follows:

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

ABSENT: Vice Chair Buttorff.

Category 3 Development Plan

01:51:53 On a motion by Member Vozos, seconded by Member Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

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

The vote was as follows:

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

ABSENT: Vice Chair Buttorff.

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PUBLIC HEARING

Case No. 23-VARIANCE-0013

Request: Variance to allow a structure to encroach into the side yard and rear yard setbacks.
Project Name: Northwestern Parkway Variance
Location: 405 Northwestern Parkway
Owner: Julius Eddie
Applicant: Julius Eddie
Jurisdiction: Louisville Metro
Council District: 5- Donna Purvis
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:

02:04:52 Heather Pollock presented the case, showed a Power Point presentation, and responded to questions from the Board members (see staff report and recording for detailed presentation).

02:08:38 In response to a question from Member Leanhart, Ms. Pollock said the applicant can answer for why they do not want to move the structure; however, the request is consistent with the footprint of the existing parking pad.

The following spoke in favor of the request:

Julius M. Eddie, 405 Northwestern Parkway, Louisville, KY 40212

Summary of testimony of those in favor:

02:09:37 Julius Eddie, the applicant, presented his case and gave a history and explanation of why he is making the variance requests today (see recording for detailed presentation.)

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The following spoke in opposition to the request:

No one spoke.

02:11:40 Board Members' deliberation

02:11:50 In response to questions from Member Leanhart, Mr. Eddie said he has spoken with his next door neighbor many times, and the neighbor said he has no problem with the location of the pad or garage. In response to questions from Member Bond, Mr. Eddie said he has spoken with the contractor about the location of the pad and described the history of this project.

Variance from the Land Development Code Section 5.4.1.E.2 to allow an accessory structure to encroach into the side yard and rear yard setbacks.

02:17:28 On a motion by Member Howard, seconded by Member Leanhart, the following resolution, based on Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

(Side Yard Variance) WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety, or welfare, because the structure must be constructed to comply with all applicable building codes and the Land Development Code, except where relief is requested. The applicant states that the adjacent property owner gave verbal permission to encroach onto adjacent property during construction and maintenance of the structure; and

WHEREAS, the Board further finds that the proposed garage does not alter the essential character of the general vicinity as it is built with material that is in character with the proposed residence and surrounding residential neighborhood. There are other accessory structures that encroach similarly into the setbacks in the area; and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the new parking pad was

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installed in the same footprint as the previous parking pad/garage and the rear property line is at an angle which makes it difficult to comply with the required setback; and

(Rear Yard Variance) WHEREAS, the Board further finds that the requested variance will not adversely affect the public health, safety, or welfare, because the structure must be constructed to comply with all applicable building codes and the Land Development Code, except where relief is requested; and

WHEREAS, the Board further finds that the proposed garage does not alter the essential character of the general vicinity as it is built with material that is in character with the proposed residence and surrounding residential neighborhood. There are other accessory structures that encroach similarly into the setbacks in the area; and

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

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant has not started construction and is requesting the variance; and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the new parking pad was installed in the same footprint as the previous parking pad/garage and the rear property line is at an angle which makes it difficult to comply with the rear yard requirement; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from the Land Development Code Section 5.4.1.E.2 to allow an accessory structure to encroach into the side yard and rear yard setbacks (sideyard setback: requirement is 2 ft; request is 1 ft; variance is 1 ft. Rear yard setback: requirement is 5 ft; request is 2 ft; variance is 3 ft.).

The vote was as follows:

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

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PUBLIC HEARING

Case No. 23-VARIANCE-0016

Request: Variance to allow the private yard area to be less than the required 30% of the area of the lot.
Project Name: Cherokee Parkway Variance
Location: 2111 Cherokee Parkway
Owner: Thomas Curtin
Applicant: Charles Williams
Jurisdiction: Louisville Metro
Council District: 8-Ben Reno-Weber
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:

02:20:58 Heather Pollock 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 a typographical error in the staff report, which listed the zoning as R-5. It should be **R-5B**.

The following spoke in favor of the request:

Charles Williams, 1626 Windsor Place, Louisville, KY 40204

Summary of testimony of those in favor:

02:24:25 Charles Williams, the applicant, presented his case (see recording for detailed presentation.)

02:26:39 In response to a question from Member Howard, Mr. Williams said he thought the garage was built in the 1980's. He said he had no record of any previous variances for it.

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The following spoke in opposition to the request:

No one spoke.

02:27:27 Board Members' deliberation

Variance from the Land Development Code Section 5.4.1.E.2 to allow an accessory structure to encroach into the side yard and rear yard setbacks.

02:28:54 On a motion by Member Howard, seconded by Member Ford, the following resolution, based on 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 applicable building codes, including fire codes, and the Land Development Code, except where relief is requested; and

WHEREAS, the Board further finds that the proposed garage addition will not alter the essential character of the general vicinity as it is going to be built with material that will be in character with the existing residence and surrounding residential neighborhood. A certificate of appropriateness was approved for this project on January 17, 2023; and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the existing garage does not allow for adequate space for the private yard area requirement; and

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

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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 existing private yard area does not meet the minimum private yard area 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 relief is sought as the applicant is requesting the variance and has not begun construction; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from Land Development Code section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of the lot (requirement is 1800 sf; the request is 980 sf; the variance is 820 sf.)

The vote was as follows:

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

ABSENT: Vice Chair Buttorff.

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PUBLIC HEARING

Case No. 23-VARIANCE-0020

Request: Variance to allow a structure to encroach into the side yard setback.
Project Name: Eastview Avenue Variance
Location: 2141 Eastview Avenue
Owner: Jordan and Lenae Price
Applicant: Jordan Price
Jurisdiction: Louisville Metro
Council District: 8-Benjamin Reno-Weber
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:

02:30:14 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:

Lenae Price, 2141 Eastview Avenue, Louisville, KY 40205

Summary of testimony of those in favor:

02:33:36 Lenae Price, the applicant, said she was available to answer questions (see recording.)

The following spoke in opposition to the request:

No one spoke.

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Case No. 23-VARIANCE-0020

02:34:47 Board Members' deliberation

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

02:37:00 On a motion by Member Leanhart, seconded by Member Ford, the following resolution, based on 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 deck must be constructed to comply with all applicable building codes and the Land Development Code, except where relief is requested; and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as there are other principal structures along this stretch of Eastview Avenue that seemingly encroach into the side setback. In fact, the properties at both 2135 and 2137 appears to encroach into the required five feet side yard setback; and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations. The proposed deck will not encroach anymore into the side setback than the current principal structure does; 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 has not begun construction and has requested a variance; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from the Land Development Code Table 5.3.1 to allow a structure to encroach into the side yard setback (requirement is 5 ft; request is 3.0 feet; variance is 2.0 feet.)

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PUBLIC HEARING

Case No. 23-VARIANCE-0020

The vote was as follows:

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

ABSENT: Vice Chair Buttorff.

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

Case No. 22-CUP-0340

Request:	Conditional Use Permit for Medical Clinic
Project Name:	BrightView
Location:	927 E. Broadway
Owner:	SITA Management, LLC
Applicant:	Andrew Zofkie - BrightView Health
Jurisdiction:	Louisville Metro
Council District:	4 - Jecorey Arthur
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:

02:38:13 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:

Andrew Zofkie, 4600 Montgomery Road, Cincinnati, OH 45212

Summary of testimony of those in favor:

02:42:00 Andrew Zofkie, the applicant, presented the case (see recording for detailed presentation.)

The following spoke in opposition to the request:

No one spoke.

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PUBLIC HEARING

Case No. 22-CUP-0340

02:43:11 Board Members' deliberation

Conditional Use Permit for Medical Clinic (LDC 4.2.29) with relief from item 'B'

02:43:50 On a motion by Member Horton, seconded by Member Vozos, the following resolution, based on 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 renovated, and the use is located along a major arterial roadway in a well-connected area with transit service; 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 as no significant exterior improvements are expected and the proposal is in an area of mixed intensities; and

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

WHEREAS, the Board further finds that Hospitals and medical clinics may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements:

- A. In form districts where nonresidential freestanding signs are not permitted, a single freestanding on-premise sign, not exceeding 80 square feet in area and not exceeding 10 feet in height, may be placed at each major entrance. Attached signs shall be designed in accordance with form district requirements, but the Board reserves the right to approve the size and location of all attached signs.
- B. All buildings and structures shall be at least 30 feet from any property line.
- C. Medical clinics shall provide an indoor waiting area(s) for clients. The waiting area shall be large enough to accommodate the clients arriving for services.
- D. Parking for medical clinics shall be adequate to accommodate the maximum number of clients expected to be at the site at one time.

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- E. Such facilities shall be located on or near a collector or arterial street with reasonable access to public transportation.

The proposal complies with each of the lettered standards of the conditional use permit, except that the existing building is within 30' from the property line. Relief is necessary and justified since the existing structures will be renovated along a major arterial roadway in a well-connected area with transit service. An indoor waiting area will be available, sufficient parking is available to serve the use, and the use is located along a major arterial roadway is reasonable access to transportation.

now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Conditional Use Permit for Medical Clinic (LDC 4.2.29) with relief from item 'B', **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 medical clinic until further review and approval by the Board.

The vote was as follows:

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

ABSENT: Vice Chair Buttorff.

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PUBLIC HEARING

Case No. 22-CUP-0413

Request: Conditional Use Permit for Short Term Rental of a Dwelling Unit That is Not the Primary Residence of the Host
Project Name: Burnett Avenue Short Term Rental
Location: 835 E. Burnett Avenue
Owner: Tommy and Mary LoCicero
Applicant: Jeremy LoCicero
Jurisdiction: Louisville Metro
Council District: 15-Jennifer Chappell
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:

02:46:22 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).

02:48:38 Member Vozos and Ms. Brooks discussed whether there was part of the property that is outside of the 600-foot area (see recording.)

02:49:10 Member Bond and Ms. Brooks discussed the other short term rental structure in the area. Ms. Brooks said it is currently registered.

The following spoke in favor of the request:

Jeremy LoCicero, 1017 Goss Avenue, Louisville, KY 40217

Summary of testimony of those in favor:

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02:49:49 Jeremy LoCicero, the applicant, said he was representing his parents, who own the property. He said his parents bought the house to have a place to stay when they are in town; they wanted to rent the property when his parents are not using it. He said the house/structure appears to be outside of the 600-foot boundary.

02:51:22 Joe Haberman, Planning & Design Manager, explained that the 600-foot boundary is property-to-property, not building-to-building. See recording for detailed discussion.

02:52:27 In response to questions from Member Leanhart, Mr. LoCicero said he would be the one managing and caring for the property. He said he has talked to several of the neighbors, and the people they talked to were in support. A neighborhood meeting was conducted in November 2022, and there were no attendees.

The following spoke in opposition to the request:

Ann Ramser, 307 East Kenwood Drive, Louisville, KY 40214

Barrett Goff, 7901 Sunbury Lane, Louisville, KY 40220

Summary of testimony of those in opposition:

02:54:36 Ann Ramser said the 600-foot rule was put in place for a reason and should not be ignored.

02:55:51 Barrett Goff said he owns the property next door to the site (837 East Burnett Avenue) and did not receive any notification about the neighborhood meeting. He said his property is a duplex and neither of his tenants received any notification. He agreed with Ms. Ramser that the 600-foot rule should be upheld. He said the lots in the neighborhood are very narrow, and the lot line of Mr. LoCicero's property is about three feet from the house at the narrowest point (see recording for detailed presentation.)

Rebuttal:

03:01:15 Mr. LoCicero discussed the method of obtaining addresses for the neighborhood meeting. He said he made staff aware that there was a different ownership name on Mr. Goff's property; he also spoke personally with one of the next door tenants about the meeting. Mr. Haberman and Ms. Brooks discussed procedures for neighborhood meetings. Ms. Brooks said staff had deemed this was still a valid

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neighborhood meeting because the applicant was able to send out a notice letter, even if it was addressed to the prior owner. See recording for detailed discussion.

03:05:15 In response to questions from the Board members, Mr. LoCicero discussed procedures for running a short term rental (security issues, etc.) He said he lives on Goss Avenue, probably about four blocks away. This is the only rental property his parents or he has.

03:07:20 Board Members' deliberation

Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in the R-6 multi-family residential zone and Traditional Neighborhood form district.

03:10:20 A motion was made by Member Vozos, seconded by Member Leanhart, to approve the request (see recording for detailed motion.)

The motion failed by the following vote:

YES: Members Vozos, Leanhart.
NO: Members Ford and Chair Bond.
ABSTAIN: Members Howard and Horton.
ABSENT: Vice Chair Buttorff.

03:13:38 Further Board Members' deliberation (see recording for detailed deliberation.)

03:20:07 On a motion by Member Vozos, seconded by Member Leanhart, the following resolution, based on 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

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

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

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outside of the 600 foot area. This is a popular area with many activities and would be a good short term rental use;

- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. ***The applicant has been informed of this requirement.***
- F. Food and alcoholic beverages shall not be served by the host to any guest. ***The applicant has been informed of this requirement.***
- G Outdoor signage which identifies the short term rental is prohibited in residential zoning districts. ***The applicant has been informed of this requirement.***
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. ***The applicant states there is a rear parking pad that can accommodate two cars. The LDC credits the site with one on-street parking space.***
- 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

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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 not the primary residence of the host in the R-6 multi-family residential zone and Traditional Neighborhood form district, **SUBJECT** to the following Condition of Approval:

Condition of Approval:

- 1. The conditional use permit for this short term rental approval shall allow up to 2 bedrooms (with a maximum of 6 guests at any one time). Prior to use, bedrooms must meet all occupancy requirements set forth in Louisville Metro Code of Ordinances. A modification of the conditional use permit shall be required to allow additional bedrooms.

The vote was as follows:

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

NO: Members Ford.

ABSENT: Vice Chair Buttorff.

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PUBLIC HEARING

Case No. 23-CUP-0001

Request: Conditional Use Permit for Short Term Rental of a Dwelling Unit That is Not the Primary Residence of the Host
Project Name: Berry Blvd. Short Term Rental
Location: 1018 Berry Blvd
Owner: Angela Chack
Applicant: Angela Chack
Jurisdiction: Louisville Metro
Council District: 15-Jennifer Chappell
Case Manager: Amy Brooks, Planner I

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

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

Agency testimony:

03:22:38 Amy Brooks 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:

Angela Chack, 99 Orchard Street 3D, New York, NY 10002

Summary of testimony of those in favor:

03:24:47 Angela Chack, the applicant, presented her case and showed a Power Point presentation (see recording for detailed presentation.)

03:30:43 In response to questions from Member Vozos, Ms. Chack said only one person attended the neighborhood meeting and she discussed the meeting.

03:31:54 In response to questions from member Howard, Ms. Chack said she and her mother are currently staying in the house for a short time and that she plans on

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staying in the house periodically when she comes to visit Louisville. She discussed property management, security issues, and confirmed that neighbors have her phone number/contact information.

The following spoke in opposition to the request:

Ann Ramser, 307 East Kenwood Drive, Louisville, KY 40214

Summary of testimony of those in opposition:

03:33:51 In response to questions from Ann Ramser, Ms. Chack said the neighborhood meeting was not held in the home because she did not have any furniture in it at the time. She said the home will be listed on either AirBnb or Vrbo as soon as possible. She discussed the location of the smoke alarm in the house; she will have a carbon monoxide detector in the house; the house has been inspected for lead; and Ms. Chack confirmed that the house has been rented for over 29 days already. Ms. Ramser said this has already been listed on AirBnB, which she said is a violation. She discussed concerns and questions she had about “civil and criminal violations”.

03:38:36 Member Howard and Ms. Ramser discussed the rental of the property for more than 30 days through AirBnB (see recording for detailed discussion.)

03:40:03 In response to questions and discussion between the Members and Ms. Ramser, Joe Haberman, Planning & Design Manager, discussed noise complaints and enforcement issues (see recording.)

Rebuttal:

03:42:24 Ms. Chack presented rebuttal (see recording for detailed presentation.) She added that she could also add noise detectors on the property, if that was something the Board wanted. In response to questions from Member Howard, Ms. Chack said she has rented the house for 30+ days, but not short-term rentals.

03:46:00 Board Members’ deliberation

Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in the R-5 single family residential zone and Traditional Neighborhood form district.

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03:46:18 On a motion by Member Leanhart, seconded by Member Horton, the following resolution, based on 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 **4.2.63** Short Term Rental of a dwelling unit that is not the primary residence of the host or the Short Term Rental of a condominium unit that is the primary residence of the host in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 or R-8A district and Short Term Rental of any dwelling unit in a TNZD district may be allowed upon the granting of a Conditional Use Permit. In addition to any conditions of approval, a short term rental and its host shall meet the following requirements:

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

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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 zero properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host.***

- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. ***The applicant has been informed of this requirement.***

- F. Food and alcoholic beverages shall not be served by the host to any guest. ***The applicant has been informed of this requirement.***

- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts. ***The applicant has been informed of this requirement.***

- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. ***The applicant states there is a driveway that can accommodate 2-3 cars. The LDC credits the site with one on-street parking space.***

- 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.***

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- 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 not the primary residence of the host in the R-5 single family residential zone and Traditional Neighborhood form district, **SUBJECT** to the following Condition of Approval:

Condition of Approval

- 1. The conditional use permit for this short term rental approval shall allow up to 2 bedrooms (with a maximum of 6 guests at any one time). Prior to use,

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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 Howard, Vozos, Horton, Leanhart, Ford, and Chair Bond.

ABSENT: Vice Chair Buttorff.

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PUBLIC HEARING

Case No. 23-CUP-0003

Request: Conditional Use Permit for Short Term Rental of a Dwelling Unit That is Not the Primary Residence of the Host
Project Name: Rosemont Blvd. Short Term Rental
Location: 3710 Rosemont Blvd.
Owner: Rebecca and Chad Jones
Applicant: Rebecca and Chad Jones
Jurisdiction: Louisville Metro
Council District: 10 - Pat Mulvihill
Case Manager: Molly Clark, Planner II

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

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

Agency testimony:

03:47:35 Molly Clark 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:

Rebecca Jones, 11006 Shady Hollow Drive, Louisville, KY 40241

Summary of testimony of those in favor:

03:50:05 Rebecca Jones, the applicant, presented her case (see recording for detailed presentation.)

03:51:29 In response to questions from Member Howard, Ms. Jones said she still plans to rent out the home long-term during the winter months, but likely short-term during the spring and summer months (Derby, etc.) She said she lives about 10-15 minutes away from the site. She said nearby neighbors all have her contact information.

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03:53:02 In response to questions from Member Vozos, Ms. Jones said she designs AirBnB's for others, but this one is her personal property (See recording.)

The following spoke in opposition to the request:

Ann Ramser, 307 East Kenwood Drive, Louisville, KY 40214

Summary of testimony of those in opposition:

03:54:07 Ann Ramser asked why the neighborhood meeting was not held in the house; asked for information about location of smoke alarms and carbon monoxide detectors in the house; and whether the house has been inspected for lead.

03:55:46 Joe Haberman, Planning & Design Manager, said regulations about smoke detectors and carbon monoxide detectors were added into the 2019 Ordinance, and he discussed enforcement issues (see recording.) Chair Bond added that there is no requirement that the neighborhood meeting be held in the home. Ms. Ramser said that these properties are not inspected unless there is a complaint, and the only way anyone can file a complaint is by going in and looking at the house.

Rebuttal:

03:58:51 Ms. Jones presented rebuttal, and primarily discussed safety issues (see recording for detailed presentation.)

04:03:00 Board Members' deliberation

Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in the R5 Single Family Residential Zoning District and Neighborhood Form District.

04:03:13 On a motion by Member Vozos, seconded by Member Ford, the following resolution, based on 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

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

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

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

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

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- 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. ***LDC standards credit the site with 1 on street and 2 off-street parking spaces.***

- 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

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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 dwelling unit that is not the primary residence of the host in the R5 Single Family Residential Zoning District and Neighborhood Form District, **SUBJECT** to the following Condition of Approval:

Condition of Approval

- 1. The conditional use permit approval for this short term rental shall be allowed 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 Howard, Vozos, Horton, Leanhart, Ford, and Chair Bond.

ABSENT: Vice Chair Buttorff.

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Case No. 23-CUP-0005

Request: Conditional Use Permit for Short Term Rental of a Dwelling Unit That is Not the Primary Residence of the Host
Project Name: William Street Short Term Rental
Location: 139 William Street
Owner: C & A Rental Properties, LLC
Applicant: Andrew Walters
Jurisdiction: Louisville Metro
Council District: 9 - Andrew Owen
Case Manager: Chris French, AICP, Planning Supervisor

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

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

Agency testimony:

04:04:54 Chris French presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation). He noted that there is one other short-term rental property within 600 feet (19-CUP-0219) and he received a letter of opposition from the Clifton Community Council. However, he informed them that 19-CUP-0219 has not had an active registration for more than two years. Therefore, the Council rescinded its opposition to this case and will remain neutral going forward.

The following spoke in favor of the request:

Andrew Walters, 739 Greenridge Lane, Louisville, KY 40207

Summary of testimony of those in favor:

04:08:15 Andrew Walters, the applicant, presented the case (see recording for detailed presentation.) In response to a question from Chair Bond, Mr. Walters said he lives about 2 miles from the subject property; also, someone else will be managing and cleaning the house and property. Neighbors already have his contact information.

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The following spoke in opposition to the request:

Ann Ramser, 307 East Kenwood Drive, Louisville, KY 40214

Summary of testimony of those in opposition:

00:04:12 Ann Ramser expressed concerns that the lapsed short term rental property (19-CUP-0219) could re-apply and re-open. Mr. French discussed policies and procedures for expired licenses and enforcement. Ms. Ramser said the LOJIC map still shows this as a CUP. Mr. French said CUP's run with the property. However, the Metro website shows that this is not an active registration. Joe Haberman, Planning & Design Manager, discussed the revocation of a CUP and enforcement (see recording for detailed discussion.)

04:18:00 **Mike O'Leary, representing the Clifton Community Council, was called but was not present.** Mr. French reiterated why the Council withdrew their opposition and will remain neutral.

Rebuttal:

04:18:58 Mr. Walters asked if there were more questions.

04:19:20 Board Members' deliberation

Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in the R-5A multi-family residential zone and Traditional Neighborhood form district.

04:20:28 On a motion by Member Howard, seconded by Member Vozos, the following resolution, based on 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

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

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

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental. ***The applicant has been informed of this requirement.***
- B. The dwelling unit shall be limited to a single short term rental contract at a time. ***The applicant has been informed of this requirement.***
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in 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 is 1 property with an approved conditional use permit allowing short term rentals that is not the primary residence of the host. That CUP was approved under case number 19-CUP-0219 in January 2020. The last registration for this short term rental expired in February 2021. Therefore, based on standard L, this***

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CUP is null and void. The Board grants relief from Item D because 19-CUP-0219 is null and void.

- 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. ***There is 1 off-street parking space off the side alley. There also appears to be on-street parking available in the area.***
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances. ***The applicant has been informed of this requirement.***
- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have

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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 dwelling unit that is not the primary residence of the host in the R-5A multi-family residential zone and Traditional Neighborhood form district; **SUBJECT** to the following Conditions of Approval:

Condition of Approval

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

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

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The meeting adjourned at approximately 6:10 p.m.

Chair

Secretary