

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT
August 29, 2022**

A meeting of the Louisville Metro Board of Zoning Adjustment was held on August 29, 2022 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members present:

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

Members absent:

Kimberly Leanhart

Staff Members present:

Joe Reverman, Planning & Design Assistant Director
Joe Haberman, Planning & Design Manager
Joel Dock, Planning & Design Coordinator
Chris French, Planning & Design Supervisor
Jay Lockett, Planner II
Amy Brooks, Associate Planner
Laura Ferguson, Legal Counsel
Pamela M. Brashear, Management Assistant

The following matters were considered:

**BOARD OF ZONING ADJUSTMENT MINUTES
August 29, 2022**

APPROVAL OF MINUTES

AUGUST 15, 2022 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

On a motion by Member Ford, seconded by Member Buttorff, the following resolution was adopted.

RESOLVED, that the Board of Zoning Adjustment does hereby **APPROVE** the minutes of its meeting conducted on August 15, 2022.

The vote was as follows:

YES: Members Buttorff, Ford and Howard

NOT PRESENT FOR THIS CASE: Member Leanhart

ABSTAINING: Members Bond and Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
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BUSINESS SESSION

CASE NO. 22-CUP-0142

Request: Conditional Use Permit to allow a short-term rental of a dwelling unit that is not the primary residence of the host
Project Name: Briar Hill Road Short Term Rental
Location: 613 Briar Hill Road
Owner: Forwith Family Living Trust
Applicant: Sus Forwith
Jurisdiction: Louisville Metro
Council District: 9– Bill Hollander
Case Manager: Heather Pollock, Planner I
Presented By: Joe Haberman, Planning Manager

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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Discussion

00:05:49 Joe Haberman said he received letters from parties that attended the previous meeting. Those letters were not accepted because the public hearing was closed (see recording for detailed presentation).

00:06:38 Laura Ferguson said it may need to be continued because of the previous split vote (see recording for detailed presentation).

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.

On a motion by Member Bond, seconded by Member Buttorff, the following resolution was adopted.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** this case to the September 26, 2022 BOZA meeting allowing a 5-minute summary recap from both sides and 10 minutes for new information.

The vote was as follows:

YES: Members Bond, Buttorff, Ford and Vozos

NO: Member Howard

NOT PRESENT AND NOT VOTING: Member Leanhart

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BUSINESS SESSION

CASE NO. 22-MCUP-0004

Request: Modified Conditional Use Permit for potentially hazardous or nuisance uses (LDC 4.2.42)
Project Name: DOW Chemical Company
Location: 4300 Camp Ground Road
Owner: Rohm, & Haas Chemicals LLC
Applicant: DOW Chemical Company
Jurisdiction: Louisville Metro
Council District: 1 – Angela Bowens
Case Manager: Joel P. 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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Discussion

00:16:29 Joel Dock discussed the case summary, standard of review and staff analysis from the staff report (see recording for detailed presentation).

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.

Modified Conditional Use Permit for potentially hazardous or nuisance uses (LDC 4.2.42)

On a motion by Member Vozos, seconded by Member Bond, the following resolution based on the Standard of Review and Staff Analysis was adopted.

WHEREAS, the proposal, which predates the approval of the 1972 conditional use permit, does not appear to conflict with the land use and development policies of Plan 2040 as the improvements support the current use of the subject site; and

WHEREAS, no improvements are being made that reduce compatibility with surrounding land uses; and

WHEREAS, the Board finds, the subject property is served by existing public utilities and facilities; and

WHEREAS, the Board further finds, the following uses (manufacture, processing, treatment, or storage unless otherwise specified), having accompanying hazards such

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CASE NO. 22-MCUP-0004

as fire, explosion, noise, vibration, dust, or the emission of smoke, odor, or toxic gases may, if not in conflict with other laws or ordinances, be located in industrial zones as indicated below by Conditional Use Permit after the location and nature of such use shall have been approved by the Board of Zoning Adjustment. In reviewing an application for a CUP, the Board of Zoning Adjustment shall review the plan and statements of the applicant and the following:

A. The Comprehensive Plan;

B. Environmental and health related concerns raised by the operation and the applicant's proposal to mitigate any adverse effects to the public's health, safety and general welfare;

C. The applicant's site design, buffering, and security measures and their adequacy to mitigate any adverse effects to the public's health, safety and general welfare;

D. Any other evidence submitted by the applicant and any other party addressing the issues.

The proposed improvements on the subject site do not appear to conflict or violate the standards listed above.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Modified Conditional Use Permit for potentially hazardous or nuisance uses (LDC 4.2.42), **SUBJECT** to the following Conditions of Approval:

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

2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for potentially hazardous or nuisance uses until further review and approval by the Board.

3. A minor subdivision plat or legal instrument shall be recorded dedicating additional right-of-way in the amount of 37.5 feet from centerline as presented for the approved administrative right-of-way waiver on July 19, 2022 prior to construction plan approval.

The vote was as follows:

YES: Members Bond, Buttorff, Ford, Vozos and Howard

NOT PRESENT AND NOT VOTING: Member Leanhart

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PUBLIC HEARING

CASE NO. 22-VARIANCE-0081

Request: Variance to allow an accessory structure to encroach into the rear yard setback.
Project Name: Michael Edward Drive Variance
Location: 9300 Michael Edward Drive
Owner/Applicant: Kevin Reid
Jurisdiction: Louisville Metro
Council District: 22 – Robin Engel
Case Manager: Heather Pollock, Planner I
Presented By: Joe Haberman, Planning Manager

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

Agency Testimony:

00:23:33 Joe Haberman gave an overview of the previous meeting (see recording for detailed presentation).

The following spoke in favor of this request:

Robin Reid, 9300 Michael Edward Drive, Louisville, Ky. 40291

Summary of testimony of those in favor:

00:24:49 Robin Reid gave a power point presentation as rebuttal from the previous meeting (see recording for detailed presentation).

Deliberation:

00:37:55 Board of Zoning Adjustment deliberation.

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.

Variance from the Land Development Code Table 5.3.1 to allow an accessory structure to encroach into the rear yard setback

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PUBLIC HEARING

CASE NO. 22-VARIANCE-0081

On a motion by Member Buttorff, seconded by Member Vozos, the following resolution based on the fact that it does alter the essential character of the neighborhood, evidence presented and testimony heard today was adopted.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the Variance from the Land Development Code Table 5.3.1 to allow an accessory structure to encroach into the rear yard setback.

The vote was as follows:

YES: Members Bond, Buttorff, Ford, Vozos and Howard
NOT PRESENT AND NOT VOTING: Member Leanhart

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PUBLIC HEARING

CASE NO. 22-VARIANCE-0076

Request: Variance to allow an addition to encroach into the side yard setback. And a variance to allow a private yard area to be less than the required 20% of the area of the lot

Project Name: S. Hancock Street Variance

Location: 913 S. Hancock Street

Owner/Applicant: Aimee Overly

Jurisdiction: Louisville Metro

Council District: 4 – Jecorey Arthur

Case Manager: Heather Pollock, Planner I

Presented By: Chris French, 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 was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:44:14 Chris French discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Amee Overly, 913 South Hancock Street, Louisville, Ky. 40203

Summary of testimony of those in favor:

00:49:19 Amee Overly said the power point presentation and the staff report are different.

Amee Overly said she extended the deck because people were breaking into the crawl space (see recording for detailed presentation).

Deliberation:

00:53:07 Board of Zoning Adjustment deliberation.

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.

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PUBLIC HEARING

CASE NO. 22-VARIANCE-0076

Variance from Land Development Code Table 5.2.2 to allow a structure to encroach into the side yard setback

WHEREAS, the requested variance will not adversely affect the public health, safety or welfare, because the proposed structure must be constructed to comply with all building codes and the land development code, except where relief is requested; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as there are other structures in the area that encroach into the side yard setback; and

WHEREAS, 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 requested variance will not allow an unreasonable circumvention of the zoning regulations as the existing primary structure is already encroaching into the side yard setback and the deck addition lines up with it; and

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

WHEREAS, the Board finds, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the purpose of the addition was meant to secure an existing cellar access underneath the addition; and

WHEREAS, the Board further finds the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant has completed construction and is requesting the variance.

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

On a motion by Member Vozos, seconded by Member Ford, the following resolution based on the Standard of Review and Staff Analysis was adopted.

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

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CASE NO. 22-VARIANCE-0076

WHEREAS, the deck addition will not alter the essential character of the general vicinity as it is built with material that is in character with the existing residence and surrounding area; and

WHEREAS, 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 requested variance will not allow an unreasonable circumvention of the zoning regulations as there is additional open space behind the accessory use area that cannot be counted towards the private yard calculation; and

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

WHEREAS, the Board finds, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as there is additional open space behind the accessory use area that cannot be counted toward the private yard area; and

WHEREAS, the Board further finds the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant has completed construction and is requesting the variance.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Variance from Land Development Code Table 5.2.2 to allow a structure to encroach into the side yard setback requirement of 2.9 ft., request 0 ft., variance of 2.9 ft. and the 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 with a requirement of 870 sq. ft., request of 804 sq. ft. and variance of 66 sq. ft.

The vote was as follows:

YES: Members Bond, Buttorff, Ford, Vozos and Howard
NOT PRESENT AND NOT VOTING: Member Leanhart

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PUBLIC HEARING

CASE NO. 22-VARIANCE-0099

Request: Variance to encroach into side yard setback
Project Name: 2824 Montgomery St
Location: 2824 Montgomery St
Owner: Houseal Investments LLC
Applicant: Houseal Investments LLC
Representative: Charles Podgursky – CRP Associates
Jurisdiction: Louisville Metro
Council District: 5 – Donna Purvis
Case Manager: Jay Lockett, 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 was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:55:10 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report (see recording for detailed presentation).

The following spoke in favor of this request:

Charles Podgursky, CRP Associates, 7321 New LaGrange Road, Louisville, Ky. 40222

Summary of testimony of those in favor:

00:58:27 Charles Podgursky said he agrees with staff (see recording for detailed presentation).

The following spoke in opposition to this request:

Teresa Oechsli, 2828 Montgomery Street, Louisville, Ky. 40212
Clayton Cooney, 2831 Montgomery Street, Louisville, Ky. 40212

Summary of testimony of those in opposition:

01:00:31 Teresa Oechsli said she's concerned because she lives next door and the proposed house has been a rent-a-room in the past and has had major drug issues for years (see recording for detailed presentation).

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CASE NO. 22-VARIANCE-0099

01:08:16 Clayton Cooney said there was no sign on the property for the August 18, 2022 Planning Commission meeting. He also discussed parking and the fence (see recording for detailed presentation).

Rebuttal:

01:12:02 Charles Podgursky said they're asking for an encroachment from 3 ft. to 2.5 ft. side yard, not 1 ft. The driveway will be cleaned up and striped (see recording for detailed presentation).

Deliberation:

01:17:34 Board of Zoning Adjustment deliberation.

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.

Variance from Land Development Code Table 5.2.2 to permit a parking space to encroach into the required 3-foot side yard by up to 2 feet

On a motion by Member Vozos, seconded by Member Buttorff, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the requested variances will not adversely affect public health safety or welfare since the parking area is existing. MSD and Transportation Planning have approved the preliminary plan and will ensure safety through the construction permitting process; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity since the paved area is existing and has been used for parking. It is adjacent to other alley access off-street parking areas; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public since the paved area exists and has been used for parking in the past; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of zoning regulations since the paved parking area exists and is in the appropriate location for off-street parking in the Traditional Neighborhood form district; and

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CASE NO. 22-VARIANCE-0099

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

WHEREAS, the Board finds, the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land since the paved area is existing and the strict application of the code would reduce legal off-street parking for residents of the property; and

WHEREAS, the Board further finds 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 parking area is existing and the applicant is requesting approval prior to striping for parking.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Variance from Land Development Code Table 5.2.2 to permit a parking space to encroach into the required 3-foot side yard by up to .5 feet, variance of .5 feet on each side **ON CONDITION** that grass be required within the area on each side of the pad measuring 2.5 feet on either side and that the site plan be updated to reflect 2.5 feet on each side.

The vote was as follows:

YES: Members Bond, Buttorff, Ford, Vozos and Howard
NOT PRESENT AND NOT VOTING: Member Leanhart

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PUBLIC HEARING

CASE NO. 22-VARIANCE-0024

Request: Variance to allow an accessory structure to encroach into the side yard setback
Project Name: Highland Avenue Variance
Location: 1308 Highland Avenue
Owner/Applicant: Gary Hibbeln & Stacey Mefford
Jurisdiction: Louisville Metro
Council District: 8 – Cassie Chambers Armstrong
Case Manager: Heather Pollock, Planner I
Presented By: Chris French, 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 was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:25:00 Chris French discussed the case summary, standard of review and staff analysis from the staff report (see recording for detailed presentation).

The following spoke in favor of this request:

Gary Hibbeln, 1304 Everett Avenue #1, Louisville, Ky. 40204

Summary of testimony of those in favor:

01:28:56 Gary Hibbeln said he doesn't have any comments (see recording for detailed presentation).

Deliberation:

01:36:32 Board of Zoning Adjustment deliberation.

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.

Variance from the Land Development Code, section 5.4.1.E to allow an accessory structure to encroach into the side yard setback

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PUBLIC HEARING

CASE NO. 22-VARIANCE-0024

On a motion by Member Buttorff, seconded by Member Bond, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the requested variance will not adversely affect the public health, safety or welfare, because the proposed structure must be constructed to comply with all building codes, including fire codes; however, staff is concerned that the variance could adversely affect the adjacent property owner because construction and maintenance of the accessory structure may require encroachment onto the adjacent property; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the structure is built with material that is in character with the existing residence and the location is similar to others accessory structures in the area; and

WHEREAS, 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. The location of the accessory structure does not adversely impact the safe movement of vehicles or pedestrians; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations as the accessory structure complies with all other regulations except where relief is requested; and the location is similar to others in the area; and

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

WHEREAS, the Board finds, the strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant as the accessory structure does not appear to have a foundation and could be moved to comply with setback regulations; and

WHEREAS, the Board further finds the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant has completed construction and is requesting the variance.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Variance from the Land Development Code, section 5.4.1.E to allow an accessory structure to encroach into the side yard setback requirement of 2 ft., request of 1.5 ft. and variance of 0.5 ft.

The vote was as follows:

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CASE NO. 22-VARIANCE-0024

**YES: Members Bond, Buttorff, Ford, Vozos and Howard
NOT PRESENT AND NOT VOTING: Member Leanhart**

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PUBLIC HEARING

CASE NO. 22-VARIANCE-0088

Request: Variance to allow a fence to exceed 48 inches in height in the street side yard setback.
Project Name: Shasta Trail Fence Variance
Location: 4935 Shasta Trail
Owner/Applicant: Cristian Rivera Villatoro
Jurisdiction: Louisville Metro
Council District: 2- Barbara Shanklin
Case Manager: Heather Pollock, Planner I
Presented By: Chris French, 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 was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:40:13 Chris French discussed the case summary, standard of review and staff analysis from the staff report (see recording for detailed presentation).

The following spoke in favor of this request:

Christian Rivera, 4935 Shasta Trail, Louisville, Ky. 40218

Summary of testimony of those in favor:

01:45:13 Christian Rivera said she needs 2 fences for more privacy. The first fence is for security (see recording for detailed presentation).

Deliberation:

01:56:51 Board of Zoning Adjustment deliberation.

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.

Variance from Land Development Code section 4.4.3.A.1.a.i to allow a fence to exceed 48 inches in height in the street side yard setbacks

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PUBLIC HEARING

CASE NO. 22-VARIANCE-0088

On a motion by Member Buttorff, seconded by Member Vozos, the following resolution based on the Standard of Review and Staff Analysis, testimony heard today and the Justification Statement was adopted.

WHEREAS, the requested variance will not adversely affect the public health, safety or welfare, because the fence must be constructed to comply with all building codes and the land development code, except where relief is requested. The proposed fence will be setback far enough from the edge of pavement of the street to not obstruct vision clearance and will not adversely impact the safe movement of vehicles or pedestrians; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as there are other fences in the neighborhood that exceed 48 inches in height in the street side yard setbacks. The property is adjacent to non-residential uses and a very busy street; and

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

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations as the fence is intended to provide security and existing fence which meets regulations does not accomplish this; and

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

WHEREAS, the Board finds, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the fence is intended to provide security and existing fence which meets regulations does not accomplish this; and

WHEREAS, the Board further finds 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.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Variance from Land Development Code section 4.4.3.A.1.a.i to allow a fence to exceed 48 inches in height in the street side yard setbacks, a 72 inch fence sitting 3 ft. back from the city sidewalk and that area is maintained with shrubbery every

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4 ft. on center and create a hedge to be maintained as long as the fence is erect,
SUBJECT to the following Conditions of Approval:

1. The finished side of wood and vinyl fences must face out towards the public right of way and adjoining properties.

The vote was as follows:

YES: Members Bond, Buttorff, Ford, Vozos and Howard

NOT PRESENT AND NOT VOTING: Member Leanhart

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PUBLIC HEARING

CASE NO. 22-CUP-0148

Request: Conditional Use Permit to allow a short-term rental of a dwelling unit that is not the primary residence of the host
Project Name: Hull Street Short Term Rental
Location: 1204 Hull Street
Owner/ Applicant: Andrew Page & Olivia Myatt
Jurisdiction: Louisville Metro
Council District: 9– Bill Hollander
Case Manager: Heather Pollock, Planner I
Presented By: Chris French, 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 was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

02:00:34 Chris French discussed the case summary, standard of review and staff analysis from the staff report (see recording for detailed presentation).

The following spoke in favor of this request:

Andrew Page, 137 South Crestmoor Avenue, Louisville, Ky. 40206
Asher Myatt, 139 Blossom Circle, Shelbyville, Ky. 40065

Summary of testimony of those in favor:

02:03:59 Andrew Page discussed why he wants to host a short-term rental (see recording for detailed presentation).

02:08:31 Asher Myatt vouched for his sister Olivia (owner) (see recording for detailed presentation).

The following spoke neither for nor against the request:

Gary Hummel, 1206 Hull Street, Louisville, Ky. 40204

Summary of testimony of those spoke neither for nor against:

02:10:28 Gary Hummel said he is concerned about the noise level (see recording for detailed presentation).

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CASE NO. 22-CUP-0148

The following spoke in opposition to this request:

Bill Hollander, Representative of District 9

Summary of testimony of those in opposition:

02:12:53 Councilman Hollander said the 6-foot rule is his main concern and the effect short-term rentals have on housing in the community (see recording for detailed presentation).

Rebuttal:

02:16:29 Andrew Page said he doesn't want to have a bad effect on anyone's well-being but does want to provide a place for people to come and enjoy what Louisville has to offer (see recording for detailed presentation).

Deliberation:

02:18:40 Board of Zoning Adjustment deliberation.

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.

Conditional Use Permit to allow a short-term rental of a dwelling unit that is not the primary residence of the host

On a motion by Member Ford, seconded by Member Buttorff, the following resolution based on the Standard of Review and Staff Analysis, testimony and information provided today was adopted.

WHEREAS, the Board finds there is an existing short-term rental with a CUP within 600-feet of the property; therefore, be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the Conditional Use Permit to allow a short-term rental of a dwelling unit that is not the primary residence of the host.

The vote was as follows:

YES: Members Bond, Buttorff, Ford, Vozos and Howard
NOT PRESENT AND NOT VOTING: Member Leanhart

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PUBLIC HEARING

CASE NO. 22-CUP-0152

Request: Conditional Use Permit to allow a short-term rental of a dwelling unit that is not the primary residence of the host
Project Name: Wurtele Avenue Short Term Rental
Location: 1424 Wurtele Avenue
Owner: Limitless Properties, LLC
Applicant: Chris Nilest
Jurisdiction: Louisville Metro
Council District: 6 – David James
Case Manager: Chris French, Planning & Design Supervisor

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

Agency Testimony:

02:20:50 Chris French discussed the case summary, standard of review and staff analysis from the staff report (see recording for detailed presentation).

The following spoke in favor of this request:

Chris Nilest, 534 Kingswood Drive, Taylorsville, Ky. 40071

Summary of testimony of those in favor:

02:23:09 Chris Nilest said he started his endeavors as a renovation project but decided it will be nice as a short-term rental (see recording for detailed presentation).

Deliberation:

02:27:22 Board of Zoning Adjustment deliberation.

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.

Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in an R-5 zoning district and Traditional Neighborhood form district

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PUBLIC HEARING

CASE NO. 22-CUP-0152

On a motion by Member Vozos, seconded by Member Buttorff, the following resolution based on the Standard of Review and Staff Analysis, the fact that there are no other properties within the 600-foot radius and testimony heard today was adopted.

WHEREAS, the proposal does not conflict with Comprehensive Plan policies; and

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

WHEREAS, the Board finds, 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 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 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,

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there are no properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host.

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

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

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

H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. The applicant states that the driveway on the property can accommodate up to 4 vehicles.

I. The short-term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances. The applicant has been informed of this requirement.

J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug

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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.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow short-term rental of dwelling unit that is not the primary residence of the host in an R-5 zoning district and Traditional Neighborhood form district on the site, **SUBJECT** to the following 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.

The vote was as follows:

YES: Members Bond, Buttorff, Ford, Vozos and Howard
NOT PRESENT AND NOT VOTING: Member Leanhart

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PUBLIC HEARING

CASE NO. 22-CUP-0165

Request: Conditional Use Permit to allow a short-term rental of a dwelling unit that is not the primary residence of the host
Project Name: Thompson Avenue Short Term Rental
Location: 252 Thompson Avenue
Owner/Applicant: Brandon Cayot
Jurisdiction: Louisville Metro
Council District: 4– Jecorey Arthur
Case Manager: Heather Pollock, Planner I
Presented By: Chris French, 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 was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

02:29:31 Chris French discussed the case summary, standard of review and staff analysis from the staff report (see recording for detailed presentation).

The following spoke in favor of this request:

Brandon Cayot, 1633 Taylor Avenue, Louisville, Ky. 40213

Summary of testimony of those in favor:

02:32:51 Brandon Cayot said the house used to be a church. The plan is to run it as an Airbnb as there are no others in the area. There are no hotels in the area (see recording for detailed presentation).

Deliberation:

02:37:23 Board of Zoning Adjustment deliberation.

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.

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CASE NO. 22-CUP-0165

Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in the R-5B Two Family Zoning District and Traditional Neighborhood Form District

On a motion by Member Vozos, seconded by Member Bond, the following resolution based on the Standard of Review and Staff Analysis, the fact that there are no other nonowner-occupied short-term rentals within a 600-foot radius and the applicant will manage it was adopted.

WHEREAS, the proposal does not conflict with Comprehensive Plan policies; and

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

WHEREAS, the Board finds, 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 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 applicant states that the residence has 1 bedroom that will allow a maximum number of 4 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

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a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. As of the date of this report, within 600' of the subject property, there are no properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host.

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

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

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

H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. The applicant states that there are 4 off-street parking spaces. In addition, there appears to be available on-street parking 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 thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the

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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.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow short-term rental of dwelling unit that is not the primary residence of the host in the R-5B Two Family Zoning District and Traditional Neighborhood Form District, **SUBJECT** to the following Condition of Approval:

1. The conditional use permit approval for this short-term rental shall be allowed up to 1 bedroom (with a maximum of 4 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 Bond, Buttorff, Ford, Vozos and Howard
NOT PRESENT AND NOT VOTING: Member Leanhart

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REPORTS OF OFFICERS AND COMMITTEES

No report given

ADJOURNMENT

The meeting adjourned at approximately 3:42 p.m.

Chair

Secretary