

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

April 19, 2021

A meeting of the Louisville Metro Board of Zoning Adjustment was held on April 19, 2021 at 1:00 p.m. online via Cisco Webex Video Teleconferencing.

Members Present:

Lula Howard, Chair
Michael Seale, Vice Chair
Sharon Bond, Secretary
Kimberly Leanhart
Richard Buttorff
Yani Vozos

Members Absent:

Lindsey Jagoe

Staff Members Present:

Emily Liu, Planning & Design Director
Brian Davis, Planning & Design Manager
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Becky Gorman, Planning & Design Coordinator
Dante St. Germain, Planner II
Zach Schwager, Planner I
Rachel Mandell, Planner I
Jon Crumby, Planning & Design Coordinator
Laura Ferguson, Legal Counsel
Travis Fiechter, Legal Counsel
Sue Reid, Management Assistant

On the recommendation of the Louisville Metro Department of Public Health & Wellness regarding congregate events and social distancing, and as permitted by Commonwealth of Kentucky Senate Bill 150, the April 19, 2021 Board of Zoning Adjustment meeting was held online.

The following cases were heard:

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APRIL 5, 2021 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:06:09 On a motion by Member Leanhart, seconded by Member Bond, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the April 5, 2021 Board of Zoning Adjustment online meeting.

The vote was as follows:

Yes: Members Leanhart, Bond, Vozos, Vice Chair Seale, and Chair Howard

Abstain: Member Buttorff

Absent: Member Jagoe

00:07:16 Chair Howard called Item #4 on today's agenda at this time. Testimony begins on page #7 of these minutes.

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

CASE NUMBER 20-NONCONFORM-0022

Request:	To determine whether a nonconforming use for a private non-profit club was abandoned
Project Name:	River Road Nonconforming Rights
Location:	6603 River Road
Owner/Applicant:	Mark Mercurio and Lora Mercurio
Jurisdiction:	Louisville Metro
Council District:	16 – Scott Reed
Case Manager:	Zach Schwager, 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.

NOTE: This case was heard in conjunction with Item #3 on today's agenda (21-NONCONFORM-0004).

Agency testimony:

00:16:46 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Robert Herre, 2809 Rivers Edge Rd., Louisville, KY 40222

Mark Mercurio, 6603 River Road, Prospect, KY 40059

Steve Rauh, 6515 River Road, Prospect, KY 40059 (was sworn in, but did not speak)

Summary of testimony of those in favor:

00:23:45 Robert Herre spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

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PUBLIC HEARING

CASE NUMBER 20-NONCONFORM-0022

00:39:17 Mark Mercurio discussed photos of the property shown in the presentation and responded to questions from the Board Members (see recording for detailed presentation).

00:40:58 Mr. Herre continued his presentation and responded to questions from the Board Members (see recording for detailed presentation).

00:43:11 Zach Schwager stated staff does not believe that the request has changed, that would be up to the Board to determine. Mr. Schwager stated the applicant has provided more information than they did originally. Mr. Schwager responded to questions from the Board Members (see recording for detailed presentation).

00:45:19 Laura Ferguson, Legal Counsel, stated it almost sounds like we unofficially have a third case. Ms. Ferguson stated it seems like the approach is whether or not there is nonconforming use for office building, and if there's nonconforming use for office building then the two cases that are in front of us disappear, except we don't have a case. Ms. Ferguson and the Board Members discussed options for proceeding. Ms. Ferguson stated she thinks the cleanest way would be to continue the case so they could add a third case, with one being the nonconforming use for an office building. Ms. Ferguson stated if it is determined there is nonconforming use for an office building, the next two cases become moot. Chair Howard stated she is in agreement, and she was thinking of continuing the case because of the new information (see recording for detailed presentation).

00:48:57 Ms. Herre stated that makes sense to them too. Mr. Herre stated they do feel their applications do not exactly match the new facts, but they had already submitted them, so they didn't know what else to do (see recording for detailed presentation).

00:49:24 Vice Chair Seale asked if there were opponents to this action (see recording for detailed presentation).

00:49:46 Joe Haberman, Planning & Design Manager, stated no one signed up to speak, but he still thinks we would need to take testimony because we opened this, but that would be at the Board's discretion if they choose to continue. Mr. Haberman stated we don't have anyone signed up, but this came out of an enforcement complaint where somebody was concerned that the existing use was not lawful (see recording for detailed presentation).

00:50:50 Chair Howard called for anyone else who wished to speak on this case (see recording for detailed presentation).

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PUBLIC HEARING

CASE NUMBER 20-NONCONFORM-0022

The following spoke in opposition of the request:

No one spoke.

00:52:17 Board Members' deliberation; the Board Members and Legal Counsel discussed how to proceed. Mr. Haberman asked if the applicant could just amend the application they have on file. Ms. Ferguson stated that is a possibility. Mr. Schwager explained the process of amending the application (see recording for detailed presentation).

00:58:44 On a motion by Member Leanhart, seconded by Member Buttorff, the following resolution, based upon the testimony and evidence heard today, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 20-NONCONFORM-0022 and Case Number 21-NONCONFORM-0004 to the May 17, 2021 Board of Zoning Adjustment meeting to allow the applicant time to amend the application.

The vote was as follows:

Yes: Members Buttorff, Leanhart, Bond, Vozos, Vice Chair Seale, and Chair Howard

Absent: Member Jagoe

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PUBLIC HEARING

CASE NUMBER 21-NONCONFORM-0004

Request:	Change in nonconforming rights from a private non-profit club to a professional office
Project Name:	River Road Nonconforming Rights
Location:	6603 River Road
Owner/Applicant:	Mark Mercurio and Lora Mercurio
Jurisdiction:	Louisville Metro
Council District:	16 – Scott Reed
Case Manager:	Zach Schwager, 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.

NOTE: This case was heard in conjunction with Item #2 on today's agenda (20-NONCONFORM-0022). See page 5 of these minutes for motion/vote information.

NOTE: The meeting continued with agenda Item #5. Testimony begins on Page #9 of these minutes.

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0104

Request:	Variances to exceed maximum allowed height and to exceed maximum allowed setback
Project Name:	Providence Point
Location:	2020 Herr Lane
Owner:	Providence Point LLC
Applicant:	Providence Point LLC
Representative:	Bardenwerper, Talbott & Roberts
Jurisdiction:	Louisville Metro
Council District:	7 – Paula McCraney
Case Manager:	Dante St. Germain, AICP, Planner II

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

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

NOTE: This case was called out of order, after the Approval of Minutes.

Agency testimony:

00:08:08 Dante St. Germain stated the Revised Detailed District Development Plan and five waivers for this case were heard before the Planning Commission on April 1st, and the Planning Commission continued the case to April 15th. Ms. St. Germain stated the idea of scheduling the case for today for the variances was that the Planning Commission would have already taken action. However, when it was heard again on the 15th, the Planning Commission continued the case to May 20th. Ms. St. Germain stated the applicant has requested to continue to the next Board of Zoning Adjustment meeting after May 20th, which would be June 7th (see staff report and recording for detailed presentation).

00:09:54 On a motion by Vice Chair Seale, seconded by Member Bond, the following resolution, based upon the testimony heard today, was adopted:

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0104

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 20-VARIANCE-0104 and 20-VARIANCE-0167 to the June 7, 2021 Board of Zoning Adjustment meeting.

The vote was as follows:

Yes: Members Buttorff, Leanhart, Bond, Vozos, Vice Chair Seale, and Chair Howard

Absent: Member Jagoe

00:11:47 Chair Howard called Item #8 on today's agenda at this time. Testimony begins on Page #17 of these minutes.

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0025

Request: Variance to allow for a new commercial structure to be built closer to the front property line than the infill setback requirement

Project Name: 1555 Bardstown Rd

Location: 1555 Bardstown Rd

Owner/Applicant: Eric Carrico, Katy Fulton, LLC/Rachel Harman, Concept Architects

Jurisdiction: Louisville Metro

Council District: 8 – Cassie Chambers Armstrong

Case Manager: Becky Gorman, Planning and Design 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:

01:01:33 Becky Gorman presented the case and showed a Powerpoint presentation. Ms. Gorman responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Rachel Harmon, 1621 Windsor Pl., Louisville, KY 40204

Dan Spitler, 1621 Windsor Pl., Louisville, KY 40204

Direll Dixon, 322 Algier Ave., Louisville, KY 40214

Summary of testimony of those in favor:

01:09:44 Rachel Harmon spoke in favor of the request (see recording for detailed presentation).

01:11:13 Dan Spitler spoke in favor of the request (see recording for detailed presentation).

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CASE NUMBER 21-VARIANCE-0025

01:11:50 Ms. Harmon and Mr. Spitler spoke about the design of the building and responded to questions from the Board Members (see recording for detailed presentation).

01:16:13 Direll Dixon spoke in favor of the request (see recording for detailed presentation).

Testimony neither for nor against:

01:18:16 Becky Gorman stated she had received an email from Debra Harlan neither for nor against the request. Ms. Gorman provided a summary of the email (see recording for detailed presentation).

The following spoke in opposition of the request:

Bruce Baumgardner, 2169 Strathmoor Blvd., Louisville, KY 40205

Summary of testimony of those in opposition:

01:18:57 Bruce Baumgardner spoke in opposition of the request. Mr. Baumgardner stated he is concerned about parking. Mr. Baumgardner stated his second concern is he was told this was a bourbon tasting situation. Mr. Baumgardner stated he doesn't have a problem with that too much, but he can see where there would be a way someone could change that into a bourbon drinking establishment. Mr. Baumgardner stated that's where he has a problem because his tenants are very family oriented, and they have a mission behind their business and the mission is to purchase books for children and to have books sitting out for children. Mr. Baumgardner stated to him, to tie that in to the bar next door is just not the family way. Mr. Baumgardner stated his most important concern is that the building would block his sign for his tenant and would block his building. Mr. Baumgardner stated it would put him in a position where he would be cubby-holed, and he'd be blocked off from all the traffic going up and down there. Mr. Baumgardner responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

01:27:21 Mr. Spitler and Ms. Harmon spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 21-VARIANCE-0025

01:32:37 Mr. Baumgardner stated he disagrees with reimagining the parking in the rear (see recording for detailed presentation).

01:33:18 Joe Haberman stated another person had signed up to speak in support. Chair Howard stated she would just like to note for the record that there was another person to speak in support who was not here at the time of the public hearing. The Board Members stated they would like to hear the testimony from the additional speaker (see recording for detailed presentation).

01:34:58 David Sheridan (24 Gravesend Neck Road, Brooklyn, NY 11223) spoke in favor of the request. Mr. Sheridan stated he is one of the owners of 1553 Bardstown Road. Mr. Sheridan stated they also would be cubby-holed, and he thinks the benefit to the business in general would outweigh the reduction of visibility (see recording for detailed presentation).

01:37:09 Ms. Harmon and Mr. Spitler responded to Mr. Baumgardner's comments regarding parking (see recording for detailed presentation).

01:39:21 Chair Howard asked Attorney Ferguson if the Board needs to deal with anything related to parking. Attorney Ferguson said no, our issue is the variance (see recording for detailed presentation).

01:40:19 Ms. Harmon responded to questions from the Board Members (see recording for detailed presentation).

01:41:40 Board Members' deliberation

02:00:08 On a motion by Vice Chair Seale, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted: **(NOTE: Due to a glitch in the Webex recording, Vice Chair Seale's entire motion was not audible. However, Member Buttorff seconded the motion and a roll call vote was recorded by Sue Reid, Management Assistant, during the meeting as noted below):**

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety, or welfare. The structure will be constructed to comply with all building codes, including fire codes, and

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CASE NUMBER 21-VARIANCE-0025

WHEREAS, the Board further finds that the essential character of the general vicinity consists of commercial storefronts built to the sidewalk, including 2 on the block face of the subject property. Bardstown Road has many examples of 1-story commercial front additions which contribute to the District's commercial character, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as there are 2 commercial fronts on the same block face with the same setback, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the Bardstown Road Corridor has many examples of commercial front additions which contribute to the District's commercial character, including 2 on the block face of the subject property; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0025 does hereby **APPROVE** Variance from Land Development Code Section 5.1.12.A.2.1 to allow a new building at the front property line (**Front Yard Requirement 30-50 ft., Request 0 ft., Variance 30 ft.**).

The vote was as follows:

Yes: Members Buttorff, Leanhart, Bond, Vozos, Vice Chair Seale, and Chair Howard

Absent: Member Jagoe

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0027

Request:	Variance to allow a primary structure to encroach into the required side yard setback
Project Name:	Brighton Drive Variance
Location:	2214 Brighton Drive
Owner/Applicant:	Samuel Ewing/Anne Del Prince
Jurisdiction:	Wellington
Council District:	26 – Brent Ackerson
Case Manager:	Rachel Mandell, 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:

02:00:38 Rachel Mandell presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The follow spoke in favor of the request:

Anne Del Prince, 640 Country Club Road, Louisville, KY 40206

Summary of testimony of those in favor:

02:03:54 Anne Del Prince spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

02:08:07 Board Members' deliberation

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0027

02:08:52 On a motion by Member Bond, seconded by Vice Chair Seale, the following resolution, based upon the Standard of Review and Staff Analysis, and the 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. The addition is toward the rear of the existing residence and will be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the addition is in the rear yard and is not generally visible from the front façade of the home, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the structure is toward the rear of the home and does not result in any changes to shared public areas. Additionally, the new construction will comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as there will still be a setback of two feet and the applicant has provided a construction and maintenance plan; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0027 does hereby **APPROVE** Variance from Land Development Code Table 5.3.1 to allow a principal structure to encroach into the required side yard setback (**Eastern Side Yard Requirement 5 ft., Request 2 ft., Variance 3 ft.**).

The vote was as follows:

Yes: Members Bond, Vozos, Vice Chair Seale, and Chair Howard

No: Members Buttorff, and Leanhart

Absent: Member Jagoe

02:10:20 Meeting was recessed.

02:17:48 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0029

Request:	Variance to allow an accessory structure to encroach into the required side yard setback
Project Name:	Leland Road Variance
Location:	4003 Leland Road
Owner/Applicant:	Timothy Shaner
Jurisdiction:	St. Matthews
Council District:	9 – Bill Hollander
Case Manager:	Rachel Mandell, 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:

02:18:18 Rachel Mandell presented the case and showed a Powerpoint presentation. Ms. Mandell responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Patricia Shaner, 4003 Leland Road, Louisville, KY 40207

Summary of testimony of those in favor:

02:22:13 Patricia Shaner spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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CASE NUMBER 21-VARIANCE-0029

02:25:07 Board Members' deliberation

02:25:15 On a motion by Member Leanhart, seconded by Member Vozos, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, the following resolution 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. The garage will be replacing an existing structure and will be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposed structure is replacing an existing structure of the same use, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the structure is toward the rear of the home and does not result in any changes to shared public areas. Additionally, the new construction will comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed garage is in the same location as the existing garage; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0029 does hereby **APPROVE** Variance from St. Matthews Development Code Article 4.6.C.2.b to allow an accessory structure to encroach into the required side yard setback (**Northeast Side Yard Requirement 5 ft., Request 1 ft. 3 in., Variance 3 ft. 9 in.**).

The vote was as follows:

Yes: Members Buttorff, Leanhart, Bond, Vozos, Vice Chair Seale, and Chair Howard

Absent: Member Jagoe

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PUBLIC HEARING

CASE NUMBER 21-CUP-0020

Request:	Conditional Use Permit to allow transitional housing in an R-6 zoning district
Project Name:	Kaylyn's House of Joy
Location:	645 Lindell Avenue
Owner/Applicant:	Kathy Malone
Jurisdiction:	Louisville Metro
Council District:	5 – Donna Purvis
Case Manager:	Jon E. Crumbie, Planning & Design 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.

NOTE: This case was called out of order.

Agency testimony:

00:12:24 Jon Crumbie stated he received an email from the applicant requesting this case be continued to May 17th (see staff report and recording for detailed presentation).

00:13:44 On a motion by Vice Chair Seale, seconded by Member Vozos, the following resolution, based upon the testimony heard today, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 21-CUP-0020 to the May 17, 2021 Board of Zoning Adjustment meeting.

The vote was as follows:

Yes: Members Buttorff, Leanhart, Bond, Vozos, Vice Chair Seale, and Chair Howard

Absent: Member Jagoe

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PUBLIC HEARING

CASE NUMBER 21-CUP-0031

Request:	Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Wimpole Road Short Term Rental
Location:	4113 Wimpole Rd
Owner/Applicant:	Marian Black
Jurisdiction:	Louisville Metro
Council District:	26 – Brent Ackerson
Case Manager:	Rachel Mandell, 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:

02:27:48 Rachel Mandell presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Marian Black, 260 Quail Run Road, Brandenburg, KY 40108
Amber Carter, 4156 Westport Road, Suite 208, Louisville, KY 40207

Summary of testimony of those in favor:

02:30:54 Marian Black spoke in favor of the request (see recording for detailed presentation).

02:32:55 Amber Carter spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 21-CUP-0031

The following spoke in opposition of the request:

No one spoke.

02:40:36 Board Members' deliberation

02:41:40 On a motion by Member Leanhart, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the 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. The applicant has been working diligently to make improvements to the exterior and interior of the subject property and has tentatively hired a management company to operate the short-term rental should the conditional use permit be approved, 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:

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.**

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CASE NUMBER 21-CUP-0031

- 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 three bedrooms that will allow a maximum number of eight 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, there are no properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host within 600' of the subject property.**
- 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 site has credit for on-**

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street parking, and there is a detached two-car garage as well as available parking in the driveway.

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0031 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in an R-5 Zoning District and Neighborhood Form District, **SUBJECT** to the following Condition of Approval.

BOARD OF ZONING ADJUSTMENT MINUTES
April 19, 2021

PUBLIC HEARING

CASE NUMBER 21-CUP-0031

Condition of Approval:

1. The conditional use permit for this short term rental approval shall allow up to three bedrooms. A modification of the conditional use permit shall be required to allow additional bedrooms.

The vote was as follows:

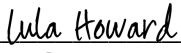
Yes: Members Buttorff, Leanhart, Bond, Vozos, Vice Chair Seale, and Chair Howard

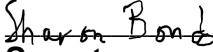
Absent: Member Jagoe

BOARD OF ZONING ADJUSTMENT MINUTES
April 19, 2021

02:43:48 Prior to adjournment, Emily Liu, Planning & Design Director, reminded the Board Members of Fair Housing Training on Friday. Chris French advised the Board Members that today is Rachel Mandell's last day with Planning & Design Services.

The meeting adjourned at approximately 3:55 p.m.

DocuSigned by:

31496F7FEAC7453...
Chair

DocuSigned by:

31496F7FEAC7453...
Secretary