

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

February 4, 2019

The Annual Meeting of the Louisville Metro Board of Zoning Adjustment was held on February 4, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Rosalind Fishman
Dwight Young
Lula Howard
Lester Turner, Jr.
Lindsey Jagoe
Richard Buttorff
Kimberly Leanhart

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Reverman, Planning & Design Assistant Director
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Jon Crumbie, Planning & Design Coordinator
Steve Hendrix, Planning & Design Coordinator
Zach Schwager, Planner I
Lacey Gabbard, Planner I
Joel Dock, Planner II
Beth Jones, Planner II
John Carroll, Legal Counsel
Sue Reid, Management Assistant

The following matters were considered:

**BOARD OF ZONING ADJUSTMENT
ANNUAL MEETING MINUTES
February 4, 2019**

BOZA_Election_Officers

BOZA Annual Election of Officers

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.

00:02:49 On a motion by Member Howard, seconded by Member Buttorff, the following resolution was adopted:

RESOLVED, Rosalind Fishman was elected to serve as Temporary Chair to preside over the Board of Zoning Adjustment Annual Meeting of February 4, 2019.

The vote was as follows:

Yes: Members Buttorff, Howard, Jagoe, Turner, Leanhart, Vice Chair Young, and Chair Fishman

00:04:18 A motion was made by Member Turner that Rosalind Fishman be nominated as Chairperson for the Board of Zoning Adjustment.

00:04:30 A motion was made by Member Howard that Dwight Young be nominated as Chairperson for the Board of Zoning Adjustment.

There being no further nominations, the election was closed and the votes were as follows:

Fishman Nomination:

Yes: Members Turner, and Leanhart

No: Members Buttorff, Howard, and Jagoe

Abstain: Members Young, and Fishman

**BOARD OF ZONING ADJUSTMENT
ANNUAL MEETING MINUTES
February 4, 2019**

Young Nomination:

Yes: Members Buttorff, Howard, and Jagoe

No: Members Turner, and Leanhart

Abstain: Members Young, and Fishman

00:08:54 A motion was made by Member Turner that Lula Howard be nominated as Vice Chairperson for the Board of Zoning Adjustment. Member Howard declined the nomination.

00:09:15 A motion was made by Member Buttorff that Rosalind Fishman be nominated as Vice Chairperson for the Board of Zoning Adjustment.

There being no further nominations, the election was closed and the vote was as follows:

Yes: Members Young, Buttorff, Howard, Jagoe, Turner, and Leanhart

Abstain: Member Fishman

00:10:23 A motion was made by Member Howard that Kimberly Leanhart be nominated as Secretary for the Board of Zoning Adjustment.

There being no further nominations, the election was closed and the vote was as follows:

Yes: Members Young, Buttorff, Howard, Jagoe, Turner, and Fishman

Abstain: Member Leanhart

**BOARD OF ZONING ADJUSTMENT
ANNUAL MEETING MINUTES
February 4, 2019**

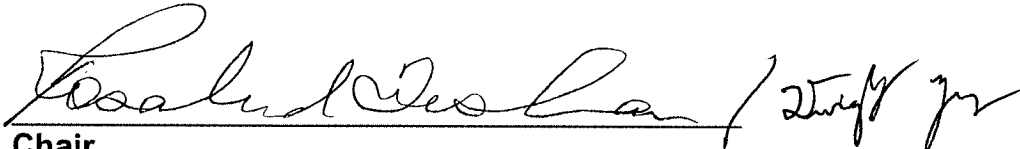
BOZA_Annual_Report

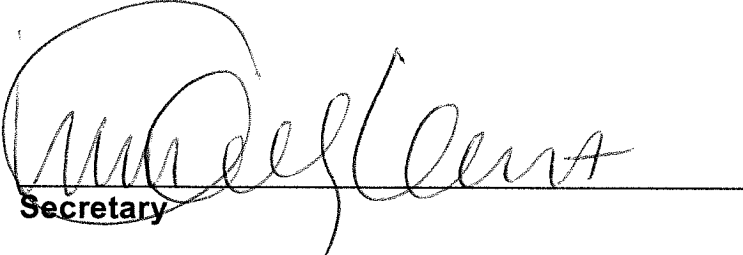
BOZA Annual Report

00:11:32 Joe Haberman presented the Board of Zoning Adjustment Annual Report and showed a Powerpoint presentation. Mr. Haberman reviewed highlights from 2018. Mr. Haberman responded to questions from the Board Members (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT
ANNUAL MEETING MINUTES
February 4, 2019

The meeting adjourned at approximately 1:25 p.m.


Chair


Secretary

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

February 4, 2019

A meeting of the Louisville Metro Board of Zoning Adjustment was held on February 4, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Rosalind Fishman, Vice Chair
Richard Buttorff
Kimberly Leanhart, Secretary
Lula Howard
Lester Turner, Jr.
Lindsey Jagoe

Members Absent:

Dwight Young, Chair

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Reverman, Planning & Design Assistant Director
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Jon Crumbie, Planning & Design Coordinator
Steve Hendrix, Planning & Design Coordinator
Zach Schwager, Planner I
Lacey Gabbard, Planner I
Dante St. Germain, Planner II
Joel Dock, Planner II
Beth Jones, Planner II
John Carroll, Legal Counsel
Travis Fiechter, Legal Counsel (arrived at approximately 3:00 p.m.)
Paul Whitty, Legal Counsel (arrived at approximately 5:00 p.m.)
Sue Reid, Management Assistant

The following cases were heard:

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

APPROVAL OF MINUTES

JANUARY 22, 2019 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:26:48 On a motion by Member Turner, seconded by Member Howard, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on January 22, 2019.

The vote was as follows:

Yes: Members Howard, Jagoe, Turner, Leanhart, and Vice Chair Fishman

Abstain: Member Buttorff

Absent: Chair Young

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

BUSINESS SESSION

BOZA_Bylaws

Request: Proposed By-law Amendments
Case Manager: Chris French, AICP, Planning Supervisor

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 out of order, after Item #3 on the agenda.

Agency testimony:

00:34:04 Chris French briefly reviewed the proposed changes to the BOZA By-laws and Policies (see recording for detailed presentation).

00:36:06 On a motion by Member Howard, seconded by Member Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Proposed By-law and Policies Amendments.

The vote was as follows:

Yes: Members Buttorff, Howard, Jagoe, Turner, Leanhart, and Vice Chair Fishman
Absent: Chair Young

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

BUSINESS SESSION

CASE NUMBER 18CUP1169

Request:	Modified Conditional use Permit for mini-warehouse
Project Name:	Stor-All
Location:	12113 Shelbyville Road
Owner:	Multiple Owners
Applicant:	Stor-All
Representative:	Bardenwerper, Talbott, & Roberts, PLLC
Jurisdiction:	City of Middletown
Council District:	19 – Anthony Piagentini
Case Manager:	Joel Dock, AICP, Planner II

NOTE: This case was heard out of order, prior to Item #2 on the agenda.

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:

00:30:57 Joel Dock presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

00:33:02 On a motion by Member Howard, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, and the presentation by staff today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the use itself does not occupy viable street frontage for future commercial uses providing neighborhood or regional goods and services. Further, the proposed land use does not detract from existing facilities or occupy space along the corridor that would detract from the use of alternative forms of transportation, vitality, or sense of place along the corridor. Appropriate transitions between uses that are substantially different in scale and intensity or density have been provided, and

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

BUSINESS SESSION

CASE NUMBER 18CUP1169

WHEREAS, the Board further finds that the proposal is compatible with surrounding uses and provides appropriate transitions between uses that are substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements. Woodland protection area and landscape buffering are being provided to preserve vegetation and reduce the impact upon abutting single-family homes, and

WHEREAS, the Board further finds that necessary public facilities are available or being provided by the proposal as demonstrated on the detailed district development plan, and

WHEREAS, the Board further finds that:

Mini-warehouses may be allowed in the C-2 District where the premises abut on a roadway classified as a collector or major or minor arterial as designated in the Comprehensive Plan for all of Jefferson County, Kentucky, upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. The property shall be landscaped so as to blend in with the surrounding area and shall be screened and buffered from adjacent uses of a non-industrial nature.
- B. No building, structure or pavement shall be located closer than 30 feet to side property lines or property lines abutting residential areas. This area is reserved as a landscape buffer area.
- C. No outside storage shall be allowed on the property.
- D. No storage of toxic or hazardous materials shall be allowed on the property.
- E. There shall be no retail or wholesale sales or distributing activities on site.
- G. No structure on the site shall be taller than one story and shall not exceed 15 feet in height (except for one freestanding sign as allowed in H below).
- H. Signs - Only one freestanding sign shall be allowed and shall conform to limits established for the form district in which the sign is located.

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

BUSINESS SESSION

CASE NUMBER 18CUP1169

STAFF: The requested conditional use permit meets each of these guidelines and the relief being sought from item 'B' does not appear to negatively impact surrounding land uses as the immediately abutting use is zoned for high-intensity commercial use; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1169 does hereby **APPROVE** Modified Conditional Use Permit for mini-warehouse, LDC Section 4.2.35, with **RELIEF** from Item B.

The vote was as follows:

Yes: Members Buttorff, Howard, Jagoe, Turner, Leanhart, and Vice Chair Fishman

Absent: Chair Young

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

CASE NUMBER 18VARIANCE1121

Request: Variance to allow a proposed addition to encroach into the required side yard setback
Project Name: Yale Drive Variance
Location: 1818 Yale Drive
Owner: Justin and Emily Pohn Revocable Trusts
Applicant: Landon Arza
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
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.

Agency testimony:

00:37:09 Zach Schwager presented the case and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke in favor of the request:

Justin Pohn, 1818 Yale Drive, Louisville, KY 40205

Summary of testimony of those in favor:

00:39:45 Justin Pohn 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.

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

CASE NUMBER 18VARIANCE1121

00:42:03 **Board Members' deliberation**

00:42:12 Mr. Schwager responded to questions from the Board Members (see recording for detailed presentation).

00:43:20 On a motion by Member Leanhart, seconded by Member Howard, 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 as the structure 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 will not be visible from the right-of-way, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed addition will be the same distance from the side property line as the existing structure, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the location of the addition is the same as the existing structure, 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 proposed addition is the same distance from the property line as the existing structure, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by preventing the applicant from constructing an addition that is the same distance from the side property line as the existing structure, 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

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

CASE NUMBER 18VARIANCE1121

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1121 does hereby **APPROVE** Variance from Land Development Code Table 5.3.1 to allow a structure to encroach into the required side yard setback (**Requirement 5 ft., Request 2.8 ft., Variance 2.2 ft.**).

The vote was as follows:

Yes: Members Buttorff, Howard, Jagoe, Turner, Leanhart, and Vice Chair Fishman

Absent: Chair Young

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

CASE NUMBER 19VARIANCE1001

Request: Variances and waivers for a sign
Project Name: Churchill Downs Sign Variance and Waiver
Location: 3100 S 4th Street
Owner/Applicant: AQ Properties LLC
Jurisdiction: Louisville Metro
Council District: 15 – Kevin Triplett
Case Manager: Lacey Gabbard, AICP, Planner I

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:

00:44:53 Emily Liu stated this case is requested to be continued to February 18, 2019 (see recording for detailed presentation).

00:45:58 Joe Haberman stated they are not sure if that date will work; it may be continued to another meeting (see recording for detailed presentation).

00:46:46 On a motion by Member Howard, seconded by Member Jagoe, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 19VARIANCE1001 (18WAIVER1053) to the February 28, 2019 Board of Zoning Adjustment meeting.

The vote was as follows:

Yes: Members Buttorff, Howard, Jagoe, Turner, Leanhart, and Vice Chair Fishman

Absent: Chair Young

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

CASE NUMBER 18VARIANCE1114

Request: Variance to allow an existing 6 foot high wooden privacy fence to be located in the Westport Road street side yard

Project Name: Fence Height

Location: 1216 Abbeywood Road

Owner/Applicant: Sara Jones Anderson

Jurisdiction: City of St. Matthews

Council District: 7 – Paula McCraney

Case Manager: Steve Hendrix, 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:

00:48:04 Steve Hendrix presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Adonisi Emmanuel, 1743 Patton Court, #53D, Louisville, KY 40210

Teri Smaudone, 1215 Abbeywood Road, Louisville, KY 40222

Summary of testimony of those in favor:

00:51:57 Adonisi Emmanuel spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:55:17 Teri Smaudone spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

CASE NUMBER 18VARIANCE1114

The following spoke in opposition of the request:

Mehrdad Ghayoumi, 4204 Westport Road, Louisville, KY 40241

Gary Wortham, 1214 Abbeywood Road, Louisville, KY 40222

LaQuisha Wortham, 1214 Abbeywood Road, Louisville, KY 40222

Summary of testimony of those in opposition:

00:58:35 Mehrdad Ghayoumi spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:03:32 Joe Haberman reminded the Board Members that this case only involves the fence height, and the location of the fence is not before the Board today (see recording for detailed presentation).

01:06:01 Gary Wortham spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:10:16 LaQuisha Wortham spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

01:13:23 Adonisi Emmanuel spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

01:16:42 Board Members' deliberation

01:23:00 On a motion by Member Howard, seconded by Member Buttorff, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will alter the essential character of the general vicinity; now therefore be it

**BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019**

PUBLIC HEARING

CASE NUMBER 18VARIANCE1114

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1114 does hereby **DENY** Variance from City of St. Matthews Development Code Section 9.1.B.1.a to allow an existing 6 foot high wooden privacy fence to be located in the Westport Road street side yard setback.

The vote was as follows:

**Yes: Members Buttorff, Howard, Jagoe, Leanhart, and Vice Chair Fishman
No: Member Turner
Absent: Chair Young**

01:26:30 Meeting was recessed.

01:26:45 Meeting was reconvened.

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

CASE NUMBER 18VARIANCE1106

Request: Variance from private yard area requirement
Project Name: Frankfort Avenue private yard area
Location: 2600 Frankfort Avenue
Owner/Applicant: Brian Clare
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
Case Manager: Beth Jones, 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:

01:27:14 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Brian Clare, 600 W. Main, Suite 300, Louisville, KY 40202

Summary of testimony of those in favor:

01:36:02 Brian Clare 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.

01:37:15 Board Members' deliberation

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

CASE NUMBER 18VARIANCE1106

01:39:00 Ms. Jones provided elevations to the Board Members (see recording for detailed presentation).

01:40:42 On a motion by Member Howard, seconded by Member Turner, 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 variance will not interfere with public health, safety or welfare, and

WHEREAS, the Board further finds that the proposed variance is for the rear yard of the property, which will be enclosed with a privacy fence. Both additions affecting the privacy yard will be enclosed within the fence, and

WHEREAS, the Board further finds that the variance will not cause a public hazard or nuisance through excessive noise, vibration, odor or light, and

WHEREAS, the Board further finds that permitting the proposed variance is a reasonable circumvention of zoning regulations since the proposal for the site maintains a front yard in excess of requirements, and

WHEREAS, the Board further finds that the existing residence has a front yard in excess of requirements and in excess of the adjoining residential property. The front yard to be maintained will be consistent with development on the corridor and serve as mitigation for the smaller rear private yard, and

WHEREAS, the Board further finds that the application of the regulation would create an unnecessary hardship in that it is not out of character for the site or the area, and

WHEREAS, the Board further finds that the circumstances are not the result of actions taken by the applicant in that the private yard area currently existing does not meet requirements; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1106 does hereby **APPROVE** Variance to permit a residence to encroach on the required private yard in a Traditional Marketplace Corridor form district (LDC 5.4.1.D.2) (**Requirement 2,232 sq. ft., Request 920 sq. ft., Variance 1,312 sq. ft.**).

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

CASE NUMBER 18VARIANCE1106

The vote was as follows:

**Yes: Members Buttorff, Howard, Jagoe, Turner, Leanhart, and Vice Chair
Fishman**

Absent: Chair Young

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

CASE NUMBER 18CUP1122

Request:	Conditional Use Permit for Private Institutional Use in a Single-Family Zoning District
Project Name:	Christian Academy Addition
Location:	700 S. English Station Road
Owner/Applicant:	Christian Academy of Louisville
Representative:	Blomquist Design Group LLC
Jurisdiction:	Louisville Metro
Council District:	19 – Anthony Piagentini, 20 – Stuart Benson
Case Manager:	Beth Jones, 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:

01:42:29 Beth Jones presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Marv Blomquist, 10529 Timberwood Circle, Suite D, Louisville, KY 40223
Steve French, 700 S. English Station Rd., Louisville, KY 40245

Summary of testimony of those in favor:

01:47:54 Marv Blomquist spoke in favor of the request and referred to the site plan. Mr. Blomquist responded to questions from the Board Members (see recording for detailed presentation).

01:50:44 Steve French responded to questions from the Board Members (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

CASE NUMBER 18CUP1122

01:52:25 Mr. Blomquist and Mr. French responded to questions from the Board Members (see recording for detailed presentation).

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

01:53:35 Board Members' deliberation

01:56:38 On a motion by Member Turner, seconded by Member Howard, 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 is consistent with Comprehensive Plan policies regarding compatibility and efficient use of land and public infrastructure, and

WHEREAS, the Board further finds that the proposal is compatible with development in the vicinity and with surrounding uses, and

WHEREAS, the Board further finds that the proposal is has received preliminary approval from Transportation Planning and MSD, and

WHEREAS, the Board further finds that:

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 proposal is in an R-4 Single-Family Residential zoning district and a Neighborhood form district and meets these requirements.**

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

CASE NUMBER 18CUP1122

- 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. **The proposal has received preliminary approval from Transportation Planning.**
- D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99). **The proposal is not expected to significantly impact noise levels.**
- 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. **Due to the nature of the proposed use, the hours of operation are not negotiable. Traffic impacts, which would be the most likely negative impact, are periodic in nature and mitigated by the alignment of the new driveway with existing public roadways and the site's internal circulation system;** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1122 does hereby **APPROVE** Conditional Use Permit for Private Institutional Use in a Single-Family zoning district (LDC 4.2.65), **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 by and approval of the Board.
2. The Modified 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 Proprietary Club without further review by and approval of the Board.

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

CASE NUMBER 18CUP1122

The vote was as follows:

**Yes: Members Buttorff, Howard, Jagoe, Turner, Leanhart, and Vice Chair
Fishman**

Absent: Chair Young

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

CASE NUMBER 18CUP1140

Request:	Conditional Use Permit to allow short term rental of a dwelling unit not the primary residence of the host
Project Name:	Breckinridge Street short term rental
Location:	1338 E. Breckinridge Street
Owner:	Sarah Kevric
Applicant/Host:	Arijan Kevric
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Beth Jones, 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:

01:57:53 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see staff report, staff report addendum, and recording for detailed presentation).

The following spoke in favor of the request:

Arijan Kevric, 9846 Longwood Circle, Louisville, KY 40223

Summary of testimony of those in favor:

02:03:05 Arijan Kevric 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.

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

CASE NUMBER 18CUP1140

02:11:15 Board Members' deliberation

02:11:28 On a motion by Member Turner, seconded by Member Leanhart, 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 proposed use is consistent 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. No exterior construction or alterations to the building or the site are required, and

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. The proposed use does not appear to create substantial additional requirements for the site, and

WHEREAS, the Board further finds that:

A short term rental of dwelling unit that is not 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 a 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.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **According to the applicant, the residence has one bedroom; LDC regulations permit up to six guests.**

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

CASE NUMBER 18CUP1140

- D. The dwelling unit shall be a single-family residence, duplex or condominium. This provision shall not be waived or adjusted. **PVA lists the existing principal structure as a single-family residence.**
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and 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. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **On-street parking is available along the frontage on Breckinridge Street and the side yard on Edward Street.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1140 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit not the primary residence of the host (LDC 4.2.63), **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not registered with Develop Louisville and with the Revenue Commission within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.
2. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

CASE NUMBER 18CUP1140

The vote was as follows:

**Yes: Members Buttorff, Howard, Jagoe, Turner, Leanhart, and Vice Chair
Fishman**

Absent: Chair Young

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

CASE NUMBER 18CUP1101

Request: Conditional Use Permit for a short-term rental of a dwelling unit that is not the primary residence of the host
Project Name: Smith Short Term Rental
Location: 307 Hillcrest Avenue
Owner/Applicant: Rachael and Matthew Smith
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
Case Manager: Jon E. Crumby, 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.

Agency testimony:

02:13:00 Jon Crumby presented the case and showed a Powerpoint presentation. Mr. Crumby responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Rachael Smith, 1093 Mount Doble, Big Bear City, CA 92314
Michael Ghrist, 213 Hillcrest Ave., Louisville, KY 40206

Summary of testimony of those in favor:

02:17:26 Rachael Smith spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:23:51 Michael Ghrist spoke in favor of the (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

CASE NUMBER 18CUP1101

The following spoke in opposition of the request:
Emily Dean, 309 Hillcrest Ave., Louisville, KY 40206
Robert Dean, 309 Hillcrest Ave., Louisville, KY 40206

Summary of testimony of those in opposition:

02:29:39 Emily Dean spoke in opposition of the request (see recording for detailed presentation).

02:32:21 Robert Dean spoke in opposition of the request (see recording for detailed presentation).

REBUTTAL:

02:34:14 Rachael Smith spoke in rebuttal (see recording for detailed presentation).

02:38:07 **Board Members' deliberation**

02:39:50 On a motion by Member Leanhart, seconded by Member Howard, 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 the proposal is compatible with surrounding development. No exterior alterations to the existing structure or site are proposed, 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

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

CASE NUMBER 18CUP1101

WHEREAS, the Board further finds that:

Short Term Rental Term Rental of a dwelling unit that is not 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.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **The applicant states that the residence has three bedrooms that will allow a maximum number of ten guests. The applicant is requesting a maximum number of seven guests.**
- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted.
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and 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. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **The site has credit for one on-street parking space and has parking at the rear.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

CASE NUMBER 18CUP1101

- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1101 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the owner in an R-5 zoning district and Traditional Neighborhood Form District, **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not registered with Develop Louisville and with the Revenue Commission within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.
2. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.
3. The maximum number of guests permitted in the short term rental shall be the lesser of seven (7) or that permitted by the Louisville Metro Code of Ordinances.

The vote was as follows:

Yes: Members Buttorff, Howard, Jagoe, Turner, Leanhart, and Vice Chair Fishman

Absent: Chair Young

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

CASE NUMBER 17APPEAL1004

Request: Appeal of an administrative decision
Project Name: Birchwood Avenue Appeal
Location: 201 S. Birchwood Avenue
Appellant: Chris David
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
Case Manager: Chris French, AICP, Planning and Design Supervisor

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

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

02:43:50 Vice Chair Fishman swore in all parties who were present to speak (see recording for detailed presentation).

Agency Testimony:

02:44:01 Chris French presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the appeal:

Gilmore Dutton, 513 Main Street, Shelbyville, KY 40065
Chris David, 201 Birchwood, Louisville, KY 40206
Mary Myers, 135 Brown Ave., Louisville, KY 40207
Ruth Wuerth, 521 Zorn Ave., Unit E2, Louisville, KY 40206
Gary Wright, Sr., 6511 Glendale Rd., Louisville, KY 40291
Virginia Mae Curtsinger, 6702 Glendale Rd., Louisville, KY 40291
Harold Harlow, 9000 Terry Rd., Louisville, KY 40258
Donna Kay Wright, 6511 Glendale Rd., Louisville, KY 40291
Makayla Elder, 201 S. Birchwood Ave., Louisville, KY 40206
Julie Broghamer, 10502 Jimson Pool St., Prospect, KY 40059

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

CASE NUMBER 17APPEAL1004

Summary of testimony of those in favor:

02:48:35 Gilmore Dutton spoke in favor of the appeal. Mr. Dutton reviewed documentation that he had provided to the Board Members. Mr. Dutton responded to questions from the Board Members (see recording for detailed presentation).

03:12:06 Chris David spoke in favor of the appeal and responded to questions from Mr. Dutton and the Board Members (see recording for detailed presentation).

03:24:01 Mary Myers spoke in favor of the appeal (see recording for detailed presentation).

03:26:46 Ruth Wuerth spoke in favor of the appeal (see recording for detailed presentation).

03:29:00 Gary Wright spoke in favor of the appeal (see recording for detailed presentation).

03:30:55 Virginia Mae Curtsinger spoke in favor of the appeal (see recording for detailed presentation).

03:32:39 Harold Harlow spoke in favor of the appeal (see recording for detailed presentation).

03:34:30 Donna Kay Wright spoke in favor of the appeal (see recording for detailed presentation).

03:35:59 Makayla Elder spoke in favor of the appeal (see recording for detailed presentation).

03:37:28 Julie Broghamer spoke in favor of the appeal (see recording for detailed presentation).

03:39:05 Mr. Dutton spoke in favor of the appeal (see recording for detailed presentation).

The following spoke in opposition of the appeal:

Mark Willmoth, 205 S. Birchwood Ave., Louisville, KY 40206

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

CASE NUMBER 17APPEAL1004

Vaughn Bell, 206 S. Birchwood Ave., Louisville, KY 40206
Rae Taylor, 214 Gibson Rd., Louisville, KY 40207

Summary of testimony of those in opposition:

03:41:15 Mark Willmoth spoke in opposition of the appeal. Mr. Willmoth stated based upon his observations Mr. David does not live at 201 S. Birchwood Avenue. Mr. Willmoth responded to questions from the Board Members (see recording for detailed presentation).

03:45:48 Vaughn Bell spoke in opposition of the appeal and responded to questions from the Board Members (see recording for detailed presentation).

03:50:00 Rae Taylor spoke in opposition of the appeal and responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

03:52:11 Gilmore Dutton spoke in rebuttal. Mr. Dutton and Mr. David responded to questions from the Board Members (see recording for detailed presentation).

Agency testimony:

04:00:14 Chris French reviewed the information that staff and the Director used in terms of revocation of the registration which was 1) the Airbnb listing, 2) thirteen affidavits from the residents of the neighborhood, and 3) a mortgage that is dated December, 2016 which states the address of Mr. David and his wife is 1303 S. Shelby Street (see recording for detailed presentation).

04:00:56 Mr. Dutton stated he was the preparer of that mortgage at the time and over a period of a number of years his office has used the same form for mortgages for him and that is their error, that was from a previous mortgage they did for him in 2014(see recording for detailed presentation).

04:01:34 Emily Liu reminded the Board Members of the decisions they need to make today (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

CASE NUMBER 17APPEAL1004

04:04:04 Board Members' deliberation

04:12:08 On a motion by Member Howard, seconded by Member Turner, the following resolution, based upon the Staff Report, and the evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment finds that Case Number 17APPEAL1004, Appeal of an administrative decision on 7/14/17 to revoke a short term rental registration, be **DENIED**, and the Board further **AFFIRMS** staff's decision that the property at 201 S. Birchwood Avenue was not the primary residence of the appellant on the date the short term rental registration was revoked (July 14, 2017).

The vote was as follows:

Yes: Members Buttorff, Howard, Jagoe, Turner, Leanhart, and Vice Chair Fishman

Absent: Chair Young

04:13:56 Board Members' deliberation

04:26:00 On a motion by Member Howard, seconded by Member Buttorff, the following resolution, based upon the testimony heard today, and the documentation provided by the appellant, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17APPEAL1004 finds that the property at 201 S. Birchwood Avenue is the primary residence of the appellant today (2/4/19).

The vote was as follows:

Yes: Members Buttorff, Howard, Jagoe, Turner, Leanhart, and Vice Chair Fishman

Absent: Chair Young

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

CASE NUMBER 17APPEAL1004

04:27:02 Meeting was recessed.

04:27:27 Meeting was reconvened.

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

18APPEAL1006

Request: Appeal of an administrative decision
Project Name: Mud Lane Appeal
Location: 4301 Mud Lane
Appellants: Gary Doyle, Donna Doyle, and Matthew Doyle
Jurisdiction: Louisville Metro
Council District: 13 – Mark Fox
Case Manager: Chris French, AICP, Planning and Design Supervisor

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

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

Agency Testimony:

04:27:54 Chris French presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the appeal:

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223

Summary of testimony of those in favor:

04:32:45 Nick Pregliasco spoke in favor of the appeal and showed a Powerpoint presentation. Mr. Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the appeal:

Bart Greenwald, 9625 Ormsby Station Rd., Louisville, KY 40223
Janice Conley, 4301 Mud Lane, Louisville, KY 40229

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

18APPEAL1006

Summary of testimony of those in opposition:

05:00:46 Bart Greenwald spoke in opposition of the appeal and showed a Powerpoint presentation. Mr. Greenwald responded to questions from the Board Members (see recording for detailed presentation).

05:11:52 Janice Conley spoke in opposition of the appeal (see recording for detailed presentation).

REBUTTAL:

05:13:19 Nick Pregliasco spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

05:26:57 Bart Greenwald spoke (see recording for detailed presentation).

Agency testimony:

05:28:15 Chris French reviewed the case background and responded to questions from the Board Members (see recording for detailed presentation).

05:34:08 Emily Liu stated the waiver heard by the Planning Commission was a different proposal, for storage for cars, which is not permitted at this structure. Ms. Liu stated if the owners of 4301 Mud Lane decided they wanted to store cars again they will be in violation. Ms. Liu stated this is only allowed because the proposal has changed to agricultural, and that's because of KRS 100, they do meet the minimum five acre and the barn has to be used for agricultural purposes (see recording for detailed presentation).

05:35:12 Mr. French responded to questions from the Board Members (see recording for detailed presentation).

05:36:06 Board Members' deliberation

05:38:08 On a motion by Member Howard, seconded by Member Jagoe, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

PUBLIC HEARING

18APPEAL1006

RESOLVED, the Louisville Metro Board of Zoning Adjustment finds that Case Number 18APPEAL1006, Appeal of an administrative decision on the determination of agricultural use and the application of the agricultural use exemption as listed in KRS 100.203 (4), be **DENIED**, and the Board further **AFFIRMS** the Planning Director's decision regarding agricultural use on the property and in particular within the accessory structure.

The vote was as follows:

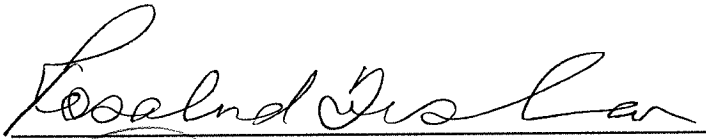
Yes: Members Howard, Jagoe, Leanhart, and Vice Chair Fishman

No: Members Buttorff, and Turner

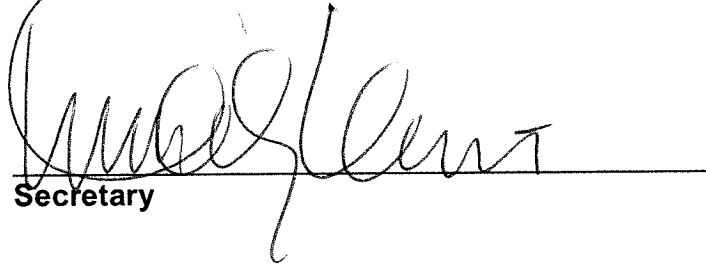
Absent: Chair Young

BOARD OF ZONING ADJUSTMENT MINUTES
February 4, 2019

The meeting adjourned at approximately 7:05 p.m.



Chair



Secretary