

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

April 18, 2022

A meeting of the Louisville Metro Board of Zoning Adjustment was held on April 18, 2022 at 1:00 p.m. online via Cisco Webex Video Teleconferencing.

Members Present:

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

Staff Members Present:

Joe Reverman, Planning & Design Assistant Director
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Heather Pollock, Planner I
Jay Lockett, Planner II
Tara Sorrels, Planner I
Laura Ferguson, 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 18, 2022 Board of Zoning Adjustment meeting was held online.

The following cases were heard:

BOARD OF ZONING ADJUSTMENT MINUTES
April 18, 2022

APRIL 4, 2022 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:05:43 On a motion by Member Bond, seconded by Vice Chair Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Minutes of the April 4, 2022 Board of Zoning Adjustment meeting.

NOTE: Due to audio difficulties, Member Ford was unable to vote

The vote was as follows:

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

Not Voting: Member Ford

BOARD OF ZONING ADJUSTMENT MINUTES
April 18, 2022

PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0140

Request:	Modified Variance for Rear Yard Encroachment, Variance to Reduce the Minimum Rear Yard Requirement, Variance to Reduce the Minimum Front Yard Requirement
Project Name:	Meadows Pointe
Location:	14706 & 14714 Old Henry Road
Owner/Applicant:	Meadows Pointe LLC
Representative:	Jon Baker – Wyatt, Tarrant & Combs, LLP
Jurisdiction:	Louisville Metro
Council District:	19 – Anthony Piagentini
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 this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

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

Agency testimony:

00:07:42 Jay Lockett presented the case and showed a Powerpoint presentation. Mr. Lockett responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Jon Baker, 400 W. Market St., Suite 2000, Louisville, KY 40202
Chris Brown, 3001 Taylor Springs Dr., Louisville, KY 40220

Summary of testimony of those in favor:

00:14:55 Chair Howard swore in Mr. Baker and Mr. Brown at the same time. Jon Baker spoke in favor of the request and showed a Powerpoint presentation. Mr. Baker reviewed the variance requests (see recording for detailed presentation).

00:23:53 Chris Brown reviewed the site plan and discussed the variance requests (see recording for detailed presentation).

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0140

The following spoke in opposition of the request:

No one spoke.

00:30:13 Board Members' deliberation

00:31:56 On a motion by Member Bond, seconded by Vice Chair 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 requested variances will not adversely affect public health safety or welfare since adequate buffering will be provided adjacent to neighboring homes. MSD and Transportation Planning have approved the preliminary plan and will ensure safety through the construction permitting process, and

WHEREAS, the Board further finds that the requested variances will not alter the essential character of the general vicinity since the proposed development is generally in keeping with the plan previously approved under 18ZONE1033 and remains compatible with other development in the area, and

WHEREAS, the Board further finds that the requested variances will not cause a hazard or nuisance to the public since adequate buffering and screening will be provided, including all required of the approved Binding Elements, and

WHEREAS, the Board further finds that the requested variances will not allow an unreasonable circumvention of zoning regulations since the proposed plan is similar to what was previously approved except where altered to accommodate necessary infrastructure; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-Variance-0140 does hereby **APPROVE** Modified Variance from Land Development Code Section 5.3.D.1.b.v to allow units 16 to 27 to encroach into the required 25-foot rear yard setback by up to 9 feet as shown on the proposed development plan, Variance from Land Development Code Section 5.3.D.1.b.v to allow units 28 to 31 to encroach into the required 25-foot rear yard setback by up to 6 feet as shown on the proposed development plan, and Variance from Land Development Code Section 5.3.D.1.b.ii to allow units 7-31 to encroach into the required 15-foot front yard setback by up to 4 feet as shown on the proposed development plan.

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0140

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0021

Request:	Variance to allow an addition to encroach into the rear yard setback and a Variance to allow a private yard area to be less than the required 30% of the area of the lot
Project Name:	Dorothy Avenue Variance
Location:	2101 Dorothy Avenue
Owner/Applicant:	Michael Lenihan
Jurisdiction:	Louisville Metro
Council District:	8 – Cassie Chambers Armstrong
Case Manager:	Heather Pollock, Planner I

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

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

Agency testimony:

00:35:46 Heather Pollock presented the case and showed a Powerpoint presentation. Ms. Pollock responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Michael Lenihan, 2101 Dorothy Ave., Louisville, KY 40205

Summary of testimony of those in favor:

00:40:32 Michael Lenihan 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.

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0021

00:44:55 Board Members' deliberation

00:45:21 On a motion by Member Vozos, seconded by Vice Chair Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Variance from Land Development Code Section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of the lot:

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

WHEREAS, the Board further finds that the porch roof does 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 residential neighborhood, and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the porch roof is the same footprint as a portion of the existing rear deck. There is additional open space that cannot be counted towards the private yard calculation. If this area could be counted toward the private yard, then a variance would not be required; and

Variance from Land Development Code Table 5.2.2 to allow a roof addition to encroach into the rear yard setback:

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

WHEREAS, the Board further finds that the porch roof and fireplace do not alter the essential character of the general vicinity as they are built with material that is in character with the existing residence and surrounding residential neighborhood, and

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CASE NUMBER 22-VARIANCE-0021

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the existing deck is only 2.8 ft. from the rear property line and the porch roof lines up with the footprint and the fireplace is adjacent; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 22-VARIANCE-0021 does hereby **APPROVE** Variance from Land Development Code section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of the lot (**Private Yard Area Requirement 3,436.88 sq. ft., Request 0 sq. ft., Variance 3,436.88 sq. ft.**) and Variance from Land Development Code Table 5.2.2 to allow a roof addition to encroach into the rear yard setback (**Rear Yard Setback Requirement 5 ft., Request 0.5 ft., Variance 4.5 ft.**).

The vote was as follows:

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

00:48:18 Chair Howard called Item #7 on today's agenda at this time. Please see pages 18 and 19 for details.

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0023

Request:	Variance to allow the private yard area to be less than the required 30% of the area of the lot
Project Name:	Northwestern Parkway Variance
Location:	2405 Northwestern Parkway
Owner/Applicant:	Mason Embry
Jurisdiction:	Louisville Metro
Council District:	5 – Donna Purvis
Case Manager:	Heather Pollock, Planner I

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

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

Agency testimony:

00:55:05 Heather Pollock presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Mason Embry, 2405 Northwestern Pkwy., Louisville, KY 40212

Summary of testimony of those in favor:

00:58:57 Mason Embry spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

01:01:08 Board Members' deliberation

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0023

01:02:45 On a motion by Member Ford, seconded by Member Bond, 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, because the structure must be constructed to comply with all applicable building codes, including fire codes, and the Land Development Code, except where relief is requested, and

WHEREAS, the Board further finds that the proposed structure will not alter the essential character of the general vicinity as it is going to be built with material that will be in character with the existing residence and surrounding residential neighborhood, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes. Additionally, the proposed structure does not adversely impact the safe movement of vehicles or pedestrians along Northwestern Pkwy., and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as there is an existing accessory structure that prevents this property from meeting the private yard area requirements. There is additional open space that cannot be counted towards the private yard calculation. If this area could be counted toward the private yard, then a variance would not be required; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 22-VARIANCE-0023 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of the lot (**Private Yard Area Requirement 3,440.8 sq. ft., Request 0 sq. ft., Variance 3,440.8 sq. ft.**).

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0041

Request:	Variance to allow a carport to encroach into the required rear yard setback
Project Name:	Relfin Office
Location:	3700 Brownsboro Rd
Owner:	Relfin Properties, LLC
Applicant:	Benjamin Morrison
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Tara Sorrels, 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:

01:05:38 Tara Sorrels presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Benjamin Morrison, 213 S. Shelby St., Louisville, KY 40202

Summary of testimony of those in favor:

01:09:48 Benjamin Morrison spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

01:12:57 Board Members' deliberation

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0041

01:13:34 On a motion by Member Leanhart, seconded by Member Ford, 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, because the proposed structure must be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposed building matches similar placements of structures in the area, and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the structure on the subject site currently encroaches into the rear setback and is consistent with other development in the area; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 22-VARIANCE-0041 does hereby **APPROVE** Variance from Land Development Code Section 5.3.2 to allow a carport to encroach into the Non-Residential to Residential setback along the rear property line (**Rear Yard Setback Requirement 15 ft., Request 5 ft., Variance 10 ft.**).

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 22-CUP-0042

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:	South 3rd Street Short Term Rental
Location:	3161 S. 3rd Street
Owner:	Aaron Tomes
Applicant:	Aaron Tomes
Jurisdiction:	Louisville Metro
Council District:	15 – Kevin Triplett
Case Manager:	Chris French, AICP Planner & 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:

01:15:39 Chris French presented the case and showed a Powerpoint presentation. Mr. French responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Aaron Tomes, 4210 Timothy Way, Crestwood, KY 40014

Summary of testimony of those in favor:

01:21:49 Aaron Tomes 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.

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PUBLIC HEARING

CASE NUMBER 22-CUP-0042

01:27:14 Board Members' deliberation

01:27:34 On a motion by Member Vozos, seconded by Member Bond 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, and

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

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental. **The applicant has been informed of this requirement.**
- B. The dwelling unit shall be limited to a single short term rental contract at a time. **The applicant has been informed of this requirement.**
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **The subject property is smaller than two acres. The applicant states that Unit 1 (first floor) has 2 bedrooms that will allow a maximum number of 6 guests.**

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PUBLIC HEARING

CASE NUMBER 22-CUP-0042

- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, within 600' of the subject property, there is one property with an approved conditional use permit allowing short term rentals that is not the primary residence of the host. The applicant is requesting relief to the provision in accordance with LDC Section 4.2.2.B. If the Board does not grant relief, the application does not meet all of the listed requirements and the conditional use permit cannot be approved. The applicant's justification is attached to the agenda item.**
- 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 up to six parking spaces on the property between the accessory structure and the residence. Access to this parking area is through an adjacent property. Off-street parking in this area of the subject property predates the LDC.**

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CASE NUMBER 22-CUP-0042

- 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 22-CUP-0042 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-6 zoning district and Traditional Neighborhood Form District, with **RELIEF** from Standard 4D because the 600 foot measurement to the approved CUP does not include the dwelling, only the corner of the lot, and the registration for that CUP has expired, and **SUBJECT** to the following Condition of Approval.

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CASE NUMBER 22-CUP-0042

Condition of Approval:

1. The conditional use permit approval for a short term rental is limited to Unit 1 (first floor unit) and this unit shall be allowed up to 2 bedrooms. A modification of the conditional use permit shall be required to allow additional bedrooms to Unit 1. A modification of the conditional use permit shall be required to allow Unit 2 to conduct short term rentals.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 22-CUP-0053

Request:	Conditional Use Permit to allow a short term rental of a dwelling unit that is not the primary residence of the host in the Traditional Neighborhood Zoning District
Project Name:	Chaudoin Short Term Rental
Location:	1338 South Floyd Street
Owner:	CRE Development, LLC
Applicant:	Matthew Chaudoin
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Heather Pollock, Planner I

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

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

Agency testimony:

00:48:58 Joe Haberman stated one of the required notices was inadvertently not sent, and it is a requirement of the LDC Ordinance to notify this resident. Mr. Haberman stated we need to defer this item to a date certain to meet that Ordinance (see recording for detailed presentation).

00:53:26 On a motion by Member Leanhart, seconded by Vice Chair Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 22-CUP-0053 to the June 13, 2022 Board of Zoning Adjustment meeting.

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CASE NUMBER 22-CUP-0053

The vote was as follows:

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

00:54:27 Chair Howard called Item #4 on today's agenda. Please see page 9 for details.

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PUBLIC HEARING

CASE NUMBER 22-CUP-0060

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:	Hence Short Term Rental
Location:	1667 Story Avenue
Owner:	Andrew Zarick & Krystin Hence
Applicant:	Krystin Hence
Jurisdiction:	Louisville Metro
Council District:	4 –Jecorey Arthur
Case Manager:	Heather Pollock, Planner I

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

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

Agency testimony:

01:30:59 Heather Pollock presented the case and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke in favor of the request:

Margaret Bruner, 6709 Brownsboro Rd., Louisville, KY 40222
Krystin Hence, 4716 W. 29th Street, Los Angeles, CA 90016

Summary of testimony of those in favor:

01:36:45 Margaret Bruner spoke in favor of the request (see recording for detailed presentation).

01:37:50 Krystin Hence spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

01:41:23 Board Members' deliberation

01:41:43 On a motion by Member Bond, seconded by Vice Chair 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, and

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

WHEREAS, the Board further finds that:

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

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

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number of bedrooms plus six individuals. **The applicant states that the residence will have 2 bedrooms that will allow a maximum number of 6 guests.**

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

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- 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

- H. **RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 22-CUP-0060 does hereby **APPROVE** Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in the R-7 Multi-Family Zoning District and Traditional Neighborhood Form District, **SUBJECT** to the following Condition of Approval.

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Condition of Approval:

1. The conditional use permit for this short term rental approval shall allow up to 2 bedrooms. A modification of the conditional use permit shall be required to allow additional bedrooms.

The vote was as follows:

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

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CASE NUMBER 22-CUP-0066

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:	Orchard Avenue Short Term Rental
Location:	1607 Orchard Avenue
Owner:	Dynamic Rentals, LLC
Applicant:	Linda Hiter – Dynamic Rentals, LLC
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
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:

01:44:07 Chris French presented the case on behalf of the Case Manager and showed a Powerpoint presentation. Mr. French responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Linda Hiter, 191 Knights Ct., Taylorsville, KY 40071

Summary of testimony of those in favor:

01:47:44 Linda Hiter 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.

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01:54:39 Board Members' deliberation

01:54:58 On a motion by Member Ford, seconded by Vice Chair 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 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 proposal does not appear to create substantial additional requirements for the site, and

WHEREAS, the Board further finds that:

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

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

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- 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 zero properties with an approved conditional use permit for a non-host occupied short term rental within 600 ft. 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 dwelling unit is a single-family residence.**
- F. Food and alcoholic beverages shall not be served by the host to any guest. **The applicant has been informed of this requirement.**
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts. **The applicant has been informed of this requirement.**
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **LDC standards credit the site with zero on-street parking spaces and there is parking for two cars 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.**

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 22-CUP-0066 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host (LDC 4.2.63), **SUBJECT** to the following Condition of Approval.

Condition of Approval:

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

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The vote was as follows:

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

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01:57:10 Prior to adjournment, Joe Haberman reminded the Board Members to place their lunch orders for Friday and stated someone would be available to provide admission tickets. Joe Reverman advised the Board Members we are tentatively looking at resuming in-person meetings at the Old Jail the week of May 16th. Mr. Reverman stated they are working on some formal policies for conducting hybrid meetings (see recording for detailed presentation).

The meeting adjourned at approximately 3:00 p.m.

Chair

Secretary