

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

May 6, 2019

A meeting of the Louisville Metro Board of Zoning Adjustment was held on May 6, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

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

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Jon Crumbie, Planning & Design Coordinator
Steve Hendrix, Planning & Design Coordinator
Beth Jones, Planner II
Zach Schwager, Planner I
Dante St. Germain, Planner II
Jay Lockett, Planner I
John Carroll, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

APPROVAL OF MINUTES

APRIL 29, 2019 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:02:13 On a motion by Member Turner, seconded by Member Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on April 29, 2019.

The vote was as follows:

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

Abstain: Members Howard, and Vice Chair Fishman

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

BUSINESS SESSION

CASE NUMBER 19CUP1059

Request:	Modification of CUP for Major Earth Excavation, Filling and Refuse Disposal Operations
Project Name:	Solid Waste Management Facility
Location:	2673 Outer Loop
Owner/Applicant:	Waste Management of Kentucky
Representative:	Stites & Harbison PLLC
Jurisdiction:	Louisville Metro
Council District:	13 – Mark Fox
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:

00:03:21 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition of the request:

No one spoke.

00:11:30 Board Members' deliberation

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

BUSINESS SESSION

CASE NUMBER 19CUP1059

00:11:45 On a motion by Vice Chair Fishman, seconded by Member Howard, the following resolution, based upon the Standard of Review and Staff Analysis, and the presentation, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposed modification is consistent with the Comprehensive Plan, and

WHEREAS, the Board further finds that the proposed modification is compatible with surrounding uses and with the general character of the area, and

WHEREAS, the Board further finds that the proposed development is consistent with expectations for the property and does not substantially increase demands on public infrastructure and facilities. The proposed modification has received preliminary approval from MSD and Transportation Planning, and

WHEREAS, the Board further finds that:

Excavation, Filling, and Refuse Disposal Operations, Major may be allowed in R-R, R-1, M-2 and M-3 Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

A. Defined - Any operation which involves a change in the existing ground surface, except (1) grading and shaping of land around a building or structure and except (2) minor earth excavations not constituting a quarry, borrow pit, or commercial operation and/or filling of land with non-combustible, inorganic materials (See Section 4.2.23) shall be subject to the following regulations. Such uses include but are not limited to the following:

1. Extraction and development of earth products, mineral and other natural resources, including sand, gravel pits, quarries, and borrow pits.
2. Landfills for non-combustible materials.
3. Incinerators, public/private.
4. Any other landfills (except for hazardous material).
5. Commercial composting.

STAFF: The request is associated with use A.4.

B. Other Standards - The proposed operation shall meet all requirements of the adopted Environmental Performance Standards.

STAFF: The request will continue to meet adopted Environmental Performance Standards.

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

BUSINESS SESSION

CASE NUMBER 19CUP1059

C. Neighborhood Protection - The operation shall be conducted in such a manner as to offer protection to the neighborhood against possible detrimental effects, taking into consideration the physical relationship to surrounding properties and access to the site including any nearby local (residential) streets.

STAFF: The request does not appear to create any lasting negative effects on the surrounding area, and the nearest residences are located approximately 0.4 miles to the east, across I-64, and 0.9 miles to the west, off of Toll Avenue.

D. Information to be Filed:

1. Drawings - A plan drawn at a scale of not less than 100 feet to the inch showing the following:
 - a. Boundaries - The exact boundaries of the site and access to public ways.
 - b. Use of Land - Present and proposed use of land, the arrangement, fully dimensioned, of all existing and proposed buildings, structures, roads, drives, parking areas, loading spaces, water, sewer, power, and other utility lines, sanitary facilities, surface drainage, landscaping, fencing, and all other features and facilities to be installed or used in connection with the proposed operation.
 - c. Contours - Show by contours of not less than 2 foot intervals (except on extremely steep slopes):
 - i. The present surface of the site and the surrounding properties within 50 feet from its boundaries by the use of dashed contours.
 - ii. The ultimate depth elevations of the area to be excavated or filled by the use of dot and dash contours.
 - iii. The ultimate finished surface of the site after all excavation and filling operations are completed by the use of solid line contours.
 - iv. If the ultimate finished surface elevation is exactly the same as the ultimate depth elevation, solid line contours alone may be used but must be so labeled in the plan legend.
 - d. Excavation Methods - Cross sections at critical points to illustrate the methods to be employed in the process of excavation and fill.
 - e. Sequence of Operations - Locations where excavation and filling operations will commence and the procedural sequence of operations.
 - f. Surface Drainage - Methods to be employed for the management of quantity and quality of surface drainage during and after completion of operations.
 - g. Volumes - The volumes of materials to be excavated and filled for each location on the site where operations are to take place.

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

BUSINESS SESSION

CASE NUMBER 19CUP1059

h. Off-Site Improvements - Improvements such as new roads and pavement to be installed off the site to enable the operation to be carried out.

i. Adjoining Property Owners - The plan shall show the names and addresses of the owners of the site and all adjoining properties, the name and address of the engineer who prepared the plan, scale, north point, the geographical relationship of the site to existing public ways and major or minor arterials as designated in the Comprehensive Plan for all of Jefferson County, Kentucky.

STAFF: This information was filed with the previously-approved CUP request and is not required for consideration of this request.

E. General Standards:

1. No excavation nor filling shall be made within 50 feet of any boundary of the site.
2. Side slopes of excavation and fills in earth, sand or gravel shall not exceed one foot vertical to two feet horizontal and shall be blended into undisturbed existing surfaces.
3. A continuous fence a minimum of 6 feet high shall be placed along the boundaries of excavated areas and provided with gates of the same construction as the fence which shall remain locked at all times when active operations are not taking place and shall be properly maintained until all operations are completed.
4. Additional landscaping is required in the buffer areas between excavation and fill areas and buildings and structures.
5. Provisions shall be made for the disposal of surface water falling on or crossing the site at all times during and after completion of the operations. The operations shall not obstruct the normal flow of any public drain or abrogate the riparian rights of any other party to a stream or drain. No operation shall begin until construction approval has been approved from the agency responsible for surface water drainage.
6. The depth of excavation and the materials to be used for fill shall not have any adverse effect on the supply, quality, or purity of ground water or wells. In no case shall an excavation be carried to a depth below an elevation of 410 feet above mean sea level.
7. A layer of clean earth at least two feet thick shall be deposited and thoroughly compacted over all fill to bring the surface to the finished surface grade as shown on the topographic plan filed with the application.
8. The finished surface of the site shall bear the proper relationship to that of adjoining properties.

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

BUSINESS SESSION

CASE NUMBER 19CUP1059

9. The installation of roads, parking areas, buildings, structures, and operational facilities and equipment shall be located on the site so that adjoining properties will not be adversely affected.
10. Excavation and fill materials shall be moved off and onto the site in vehicles approved by the appropriate Director of Works.
11. All filling operations and final approval shall be in strict conformity with the regulations of the Louisville and Jefferson County Board of Health; Air Pollution Control District; Kentucky Department for Environmental Protection and the appropriate Director of Works. Letters or Certificates of Approval of the plans by the above agencies indicating prior review shall be filed prior to the issuance of any Conditional Use Permit. Uses shall not begin until final approval has been obtained and filed in the Board of Zoning Adjustment docket file.
12. The operation shall be conducted so as not to create a nuisance or cause undue noise, vibration, dust, odor, or light to adjacent properties. The premises shall be kept in a neat and clean condition at all times. No loose paper or debris shall be allowed on the site except on areas where active filling operations are taking place. Dusty conditions shall be corrected by sprinkling with water or by the use of calcium chloride or other method that meets current state standards. No fires shall be permitted. Any smoldering flame or spontaneous combustion shall be immediately extinguished.
13. In no event will the premises be used for salvage operations of any kind. No separation or picking of waste materials will be permitted. All unacceptable fill materials as noted elsewhere in this section shall be removed from the premises immediately after delivery.
14. Except for protective fences, no building or structure erected in connection with the operation shall be located in any required yard or closer than 30 feet from any property line.
15. A specific written or site plan for vehicle cleaning facilities to prevent the tracking of mud, dirt or other debris onto any public roadway shall be reviewed and approved by the appropriate Director of Works before public hearing.
16. No materials defined as hazardous by these regulations, by the Kentucky Cabinet for Natural Resources and Environmental Protection or Federal Environmental Protection Agency will be allowed as fill.

STAFF: This request will continue to meet these requirements for the duration of the requested modification period.

F. Standards for Specific Operations:

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

BUSINESS SESSION

CASE NUMBER 19CUP1059

1. In addition to the general standards listed above, the following additional standards shall apply to:
 - a. Landfills for non-combustible material:
 - i. Fill material shall be limited to inorganic materials and other substances not subject to decomposition, combustion, or the production of odors.
 - ii. Materials shall be spread and thoroughly compacted as they are deposited.

STAFF: Operations at this site do not fall under this category.

- b. Incinerators, public and private:
 - i. No incinerator building or structure shall be located closer than 200 feet from any site boundary line, and no other building or structure used in connection with the operation shall be located closer than 30 feet from any site boundary line.
 - ii. The entire site shall be enclosed with fencing and gates as required by this Section.
 - iii. All materials delivered to the site which are organic or of organic origin or other combustible materials such as paper, cardboard, rubber, plastic, wood fiber, sawdust, floor sweepings, plasterboard, framing, lumber, laths, tree stumps, trunks, branches, foliage, furniture, rags, garbage, and industrial wastes and including metal and glass containers shall be burned in the incinerator.
 - iv. All residue resulting from the burning operations and other fill materials which are inorganic or substances which are not subject to decomposition, combustion, or the production of odors shall be disposed of properly.
 - v. All materials which are to be burned shall be placed on or in a concrete slab or hopper enclosed by a building, masonry walls, or chain link type fencing at least 6 feet high provided with doors or gates which shall be securely locked when the incinerator is not in operation. The materials shall be transferred from the slab or hopper into the incinerator and shall be burned as soon as practicable. The slab or hopper shall be kept clear of all materials when not in active use.
 - vi. There shall be no separation or picking of materials or storage for salvage thereof on the site (scavenging).
 - vii. All deliveries of materials to the site, shall be done between the hours of 7:00 A.M. and 6:00 P.M. on weekdays

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

BUSINESS SESSION

CASE NUMBER 19CUP1059

only, except otherwise necessitated by extraordinary circumstances.

viii. A watchman shall be stationed at the site at all times for whom a suitable shelter or living quarters shall be provided.

ix. Sanitary toilet facilities shall be provided on the site in accordance with the requirements of the Department of Health.

STAFF: Operations at this site do not fall under this category.

- c. Any other landfills (except hazardous materials):
 - i. No building or structure, except fencing, used in connection with the operation shall be located closer than 30 feet to any site boundary line.
 - ii. All plans shall show all pipelines used for gas collection, migration, etc. as well as the location of vents, flares, etc.
 - iii. The entire site shall be enclosed with fencing and gates as required by this Section.
 - iv. All materials delivered to the site which are organic in origin and all paper, cardboard, plastic, metal and glass containers, wood fiber, sawdust, floor sweepings, plaster board, framing lumber, laths, tree stumps, trunks, branches, foliage, furniture, rags, garbage, and industrial wastes shall be deposited and thoroughly compacted in layers not to exceed two feet in depth. Rubber tires, dead animals, and by-product wastes of a gaseous, liquid, or semi-liquid nature such as tar, paints, solvents, sludge, rubber, and plastics and other flame or fume producers may be permitted as fill material after the Kentucky Natural Resources and Environmental Protection Cabinet issues permission, unless specifically prohibited by the Board of Zoning Adjustment. Each day's deposit, after compaction, shall be covered with a layer of earth at least 6 inches in thickness after compaction. The face of the fill as well as the horizontal surface shall be covered with a layer of earth to prevent any movement of fill by wind or water erosion. Alternative methods may be allowed if approved by the Kentucky Natural Resources and Environmental Protection Cabinet and the Board.
 - v. There shall be no separation or picking of materials or storage for the salvage thereof (scavenging) on the site. All

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

BUSINESS SESSION

CASE NUMBER 19CUP1059

unacceptable fill materials as noted above shall be removed from the premises immediately after delivery.

vi. Water lines shall be installed, connected to a public water supply, or to some other source, which by use of pumps will provide water in sufficient quantity to combat fires or settle dust.

vii. Sanitary toilet facilities shall be installed in accordance with the requirements of the Department of Health.

viii. No fires shall be permitted. Any smoldering flame or spontaneous combustion in the fill shall be immediately extinguished.

ix. A watchman shall be stationed at the site at all times for whom a suitable shelter or living quarters and sanitary facilities shall be provided on the site.

x. The premises shall be kept neat and clean at all times, no loose paper or debris shall be allowed on the site except on areas where active filling operations are taking place. Dusty conditions shall be corrected by sprinkling with water or by the use of calcium chloride or some other method that meets current state standards.

xi. All deliveries of materials to the site, filling, spreading, compacting, and grading shall be done between the hours of 7:00 A.M. and 6:00 P.M. on weekdays only.

xii. Filling operations shall begin immediately upon the issuance of a permit. All areas shall be refilled to finish grades as shown on the topographic map filed with the application within a period of five years after commencement of operations. The Board may extend such time limit after a public hearing, but in any event all excavations on the site shall be refilled to finish grade within 10 years after commencement of operations.

xiii. No filling activities shall occur within 200 feet of a residential structure existing at the time of issuance of the Conditional Use Permit.

STAFF: The applicant is requesting temporary relief from Requirement xi.

d. Borrow pits and Earth Excavations:

i. No building or structure, except fencing, used in connection with the operation shall be located closer than 30 feet from any site boundary line.

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

BUSINESS SESSION

CASE NUMBER 19CUP1059

- ii. Areas where excavations have been made and are taking place shall be enclosed with fencing as required above.
- iii. Sanitary toilet facilities shall be installed in accordance with the requirements of the Department of Health.
- iv. A watchman shall be stationed at the site at all times when active operations are taking place for whom a suitable shelter or living quarters and sanitary facilities shall be provided on the site.
- v. No excavation, screening, stockpiling, filling or hauling shall be done except between the hours of 7:00 A.M. and 6:00 P.M. on weekdays.
- vi. Re-filling operations as required shall begin immediately on areas when excavations have been made to the ultimate depth and such areas shall be refilled to finish grade as shown on the topographic map filed with the application within a period of five years after commencement of excavation operations. The Board may extend such time limit after a hearing, but in any event all excavations on the site shall be refilled to finish grade within 10 years after commencement of operations.

STAFF: Operations at this site do not fall under this category.

G. Guarantee:

To insure the strict compliance with all of the above conditions and requirements, the applicant shall deposit with the Board a bond through an instrument satisfactory to the Board. The amount of the instrument shall be 150% of the estimate for remediation obtained from a qualified engineer licensed in the Commonwealth of Kentucky.

STAFF: It is unclear whether this requirement is necessary for the requested amendment; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1059 does hereby **APPROVE** Modification of a Conditional Use Permit for Earth Excavation, Filling, and Refuse Disposal Operations, Major (LDC 4.2.22), with **RELIEF** from CUP requirement limiting all deliveries of materials, filling, spreading, compacting and grading on the site to weekdays between 7:100 a.m. and 6:00 p.m. (LDC 4.2.22 F.1.C.xi), **SUBJECT** to an additional Condition of Approval:

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

BUSINESS SESSION

CASE NUMBER 19CUP1059

Condition of Approval for temporary relief from requirements regarding hours of operation:

1. The Applicant shall be permitted to operate on a 24/7 basis for a continuous period of no more than 90 days for the specific purpose of completing those activities necessary to finalize the project previously approved under B-28-85.

The applicant is required to continue to meet all other requirements of the existing Conditional Use Permit related to landfill operations.

The applicant will return standard hours of operation at or before the end of a 90 day period to begin on the later of Monday, May 6, 2019 or the day of BOZA approval of the request, and to expire on the later of August 3, 2019 or 90 days after said BOZA approval.

The vote was as follows:

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

Abstain: Chair Young

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

PUBLIC HEARING

CASE NUMBER 19VARIANCE1021

Request: Variance to allow an existing deck to encroach into the rear and side yard setbacks
Project Name: Longest Avenue Variance
Location: 2311 Longest Avenue
Owner/Applicant: Michael Allen – LAC Real Estate, LLC
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:

00:13:25 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager advised the Board Members that he did receive five opposition emails after the deadline, so these were not included with today's meeting materials. Chair Young asked Mr. Schwager to explain what the opposition concerns were. Mr. Schwager stated it was mostly making the request after the fact and that it is in a preservation district (see recording for detailed presentation).

The following spoke in favor of the request:

Mike Allen, 4009 Sunny Crossing Dr., Louisville, KY 40299

Summary of testimony of those in favor:

00:17:52 Mike Allen spoke in favor of the request. Mr. Allen stated the contractor he used did not pull the proper permits. Mr. Allen stated he had just mimicked his neighbor next door so they thought they were fine with that. Mr.

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

PUBLIC HEARING

CASE NUMBER 19VARIANCE1021

Allen responded to questions from the Board Members (see recording for detailed presentation).

The following spoke neither for nor against the request:

Tom Banaszynski, 1303 Willow Ave., Louisville, KY 40204

Summary of testimony of those neither for nor against:

00:21:09 Tom Banaszynski spoke neither for nor against the request. Mr. Banaszynski stated it is a frustration that they go and undertake these projects and fail to get any permits at all. Mr. Banaszynski stated when you look at the front of the house, there are weeds that are as tall as this table. Mr. Banaszynski stated he knows that's not an issue here, but it's frustrating that the owners are not maintaining the property. Mr. Banaszynski responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

Jennifer Schultz, 1248 Bassett Ave., Louisville, KY 40204

Summary of testimony of those in opposition:

00:24:40 Jennifer Schultz spoke in opposition of the request. Ms. Schultz read a letter from the neighbor next door at 2315 Longest Avenue who was also in opposition. The neighbor's letter referred to lack of upkeep on the property. Ms. Schultz read her own statement into the record. Ms. Schultz stated this property is currently for sale, and that the listing indicates the present owner has never lived in the property, therefore has limited knowledge. Ms. Schultz stated we have someone here seeking a variance who has no interest in living in this neighborhood. Ms. Schultz reviewed the history of permits and violations on the property. Ms. Schultz responded to questions from the Board Members (see recording for detailed presentation).

00:42:38 Mr. Schwager responded to questions from the Board Members regarding the procedure of seeking approval through an Architectural Review Committee (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

PUBLIC HEARING

CASE NUMBER 19VARIANCE1021

00:44:00 Joe Haberman provided additional information regarding the Certificate of Appropriateness. Mr. Haberman responded to questions from the Board Members (see recording for detailed presentation).

Rebuttal:

00:47:36 Mike Allen spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

00:52:51 Mr. Schwager responded to questions from the Board Members (see recording for detailed presentation).

00:56:19 **Board Members' deliberation** (Second recording during this deliberation)

00:09:40 A motion was made by Member Leanhart, seconded by Member Howard, that Case Number 19VARIANCE1021, Variance from Land Development Code Section 5.1.10.F to allow a structure to encroach into the required side yard setback, be **APPROVED**, based upon the Standard of Review and Staff Analysis, the presentation, and the Board's discussion.

The motion **FAILED** by the following vote:

Yes: Members Jagoe, Howard, and Leanhart

No: Members Buttorff, Turner, Vice Chair Fishman, and Chair Young

00:11:25 A motion was made by Member Leanhart, seconded by Member Howard, that Case Number 19VARIANCE1021, Variance from Land Development Code Table 5.2.2 to allow a structure to encroach into the required rear yard setback, be **APPROVED**, based upon the Standard of Review and Staff Analysis, the presentation, and the Board's discussion.

The motion **FAILED** by the following vote:

Yes: Members Jagoe, Howard, and Leanhart

No: Members Buttorff, Turner, Vice Chair Fishman, and Chair Young

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

PUBLIC HEARING

CASE NUMBER 19VARIANCE1023

Request: Variance to allow a principal structure to encroach into the rear yard setback
Project Name: Rudy Lane Variance
Location: 623 Rudy Lane
Owner: Kurt Showalter & Loretta Showalter
Applicant: Charles Podgursky – C.R.P & Associates, Inc.
Jurisdiction: Louisville Metro
Council District: 7 – Paula McCraney
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.)

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Agency Testimony:

00:12:55 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Charles Podgursky, 7321 New LaGrange Road, Louisville, KY 40222
Kurt & Loretta Showalter, 623 Rudy Lane, Louisville, KY 40207

Summary of testimony of those in favor:

00:16:30 Charles Podgursky spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

PUBLIC HEARING

CASE NUMBER 19VARIANCE1023

00:20:32 Kurt & Loretta Showalter were called, but declined to speak (see recording for detailed presentation).

The following spoke in opposition of the request:

Helen Davis, Mayor of Windy Hills, 732 Wicklow Rd., Louisville, KY 40207

Summary of testimony of those in opposition:

00:21:19 Mayor Helen Davis spoke in opposition of the request. Mayor Davis stated they appreciate the Showalters' enhancements to date. However, they oppose the proposed variance because it would set a precedent for their city. Mayor Davis responded to questions from the Board Members (see recording for detailed presentation).

Rebuttal:

00:24:07 Charles Podgursky spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

00:27:00 Mr. Schwager and Mr. French responded to questions from the Board Members (see recording for detailed presentation).

00:33:28 Board Members' deliberation

00:35:26 On a motion by Vice Chair Fishman, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, the presentation, the discussion, and the variance justification, 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 is consistent with other residences in the subdivision, and

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

PUBLIC HEARING

CASE NUMBER 19VARIANCE1023

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed addition will meet the five-foot setback requirement, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed addition will have minimal impact and meet all other setback requirements, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19VARIANCE1023 does hereby **APPROVE** Variance from Land Development Code Section 5.4.2.A.2.a to allow a structure to encroach into the required rear yard setback (**Requirement 25. ft., Request 13 ft., Variance 12 ft.**).

The vote was as follows:

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

00:36:33 Meeting was recessed.

00:47:28 Meeting was reconvened.

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

PUBLIC HEARING

CASE NUMBER 19DEVPLAN1009

Request: Category 3 Development Plan with Variance and Waivers
Project Name: Old Dominion Trucking Expansion
Location: 1400 Louis Coleman Jr Dr. and 3515 W Magnolia Ave.
Owner/Applicant: Old Dominion Freight Line, Inc.
Jurisdiction: Louisville Metro
Council District: 1 – Jessica Green
Case Manager: Jay Lockett, AICP, 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.)

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Agency Testimony:

00:47:42 Jay Lockett presented the case and showed a Powerpoint presentation. Mr. Lockett responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Kyle Galloway, 9625 Ormsby Station Rd., Louisville, KY 40223

Summary of testimony of those in favor:

00:55:02 Kyle Galloway spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation). (Third recording during this testimony)

The following spoke in opposition of the request:

No one spoke.

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

PUBLIC HEARING

CASE NUMBER 19DEVPLAN1009

00:03:56 **Board Members' deliberation**

00:04:25 On a motion by Member Howard, seconded by Member Jagoe, the following resolution, based upon the Standard of Review and Staff Analysis, and the applicant's variance justification, was adopted:

Variance from Land Development Code Section 5.5.1.A.1.2 to allow a structure to exceed the maximum 5 foot setback by up to 215 feet as shown on the development plan:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety and welfare as all applicable building codes will be followed for the site, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity, as there are several other industrial uses in the area with similar setbacks. A significant portion of the variance is associated with the existing condition of the site, and is triggered by the proposed expansion, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public, as all required screening and buffering will be provided on site, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations, as the subject site already has setbacks that do not conform to current regulations, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land, as it would make expansion of the business nearly impossible, and

WHEREAS, the Board further finds that portions of the site existed in the current state well before the adoption of current regulations. The request would allow for the expansion of the site for the same use, and

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

PUBLIC HEARING

CASE NUMBER 19DEVPLAN1009

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19DEVPLAN1009 does hereby **APPROVE** Variance from Land Development Code Section 5.5.1.A.1.2 to allow a structure to exceed the maximum 5 foot setback by up to 215 feet as shown on the development plan.

The vote was as follows:

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

00:05:45 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:

Waiver #1 from Land Development Code Section 5.5.1.A.3.a to permit the proposed parking lot to be located closer to the right-of-way than the primary structure:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners, as all required screening and buffering will be provided, and

WHEREAS, the Board further finds that Community Form goal 1, policy 12 states that we should ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. The parking lot is proposed to the rear and side of the subject site, which is consistent with form district standards. All required screening and buffering will be provided, and

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

PUBLIC HEARING

CASE NUMBER 19DEVPLAN1009

WHEREAS, the Board further finds that the extent of the waiver is the minimum necessary to afford relief to the applicant, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as it would prevent expansion the continued use of the site in a manner consistent with the existing development pattern, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; and

Waiver #2 from Land Development Code Section 5.5.1.A.4.b to allow loading docks to be located on the façade facing West Magnolia Ave.:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as all required screening and buffering will be provided, and

WHEREAS, the Board further finds that Community Form goal 1, policy 12 states that we should ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. The site has had loading docks facing the street since it was constructed. Significant improvements to the screening and planting along the site will be provided with this proposal, and

WHEREAS, the Board further finds that the extent of the waiver is the minimum necessary to afford relief to the applicant, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as it would prevent expansion the continued use of the site in a manner consistent with the existing development pattern, and

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

PUBLIC HEARING

CASE NUMBER 19DEVPLAN1009

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; and

Waiver #3 from Land Development Code Section 5.5.1.A.3.d to not provide a vehicular connection to the adjacent property to the west:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners, as industrial uses are unlikely to have a need for shared circulation, and often have exceptional security needs that preclude connection between sites, and

WHEREAS, the Board further finds that the waiver will not violate the guidelines of the Comprehensive Plan. Mobility Goal 3, Policy 5 states that we should evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality. Mobility Goal 3, Policy 5 states that we should ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development. Mobility Goal 3, Policy 10 states that we should ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel. The nature of development in this area is industrial and many sites are secured with fences. It is unlikely that anyone will have business at multiple abutting sites and would need to take advantage of connections between sites, and

WHEREAS, the Board further finds that the extent of the waiver is the minimum necessary to afford relief to the applicant, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land, as the proposed use has exceptional security needs that necessitate a fenced perimeter and it is unlikely that anyone will have business at multiple sites, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; and

Waiver #4 from Land Development Code Section 5.9.2.A.3.d to not provide a pedestrian connection to the Louis Coleman Jr. Dr. right-of-way:

BOARD OF ZONING ADJUSTMENT MINUTES

May 6, 2019

PUBLIC HEARING

CASE NUMBER 19DEVPLAN1009

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners, as there is an adequate sidewalk network around the subject site to accommodate pedestrian movement and access to the primary entrance, and

WHEREAS, the Board further finds that the waiver will not violate the guidelines of the Comprehensive Plan. Mobility Goal 3, Policy 5 states that we should evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality. Mobility Goal 3, Policy 5 states that we should ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development. Mobility Goal 3, Policy 10 states that we should ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel. The proposal is unlikely to generate any pedestrian traffic, as the site is to be used exclusively for the storage of trucks and transfer of freight. The proposed use of a freight transfer facility needs a fenced perimeter for security, which would prevent the creation of the required pedestrian connection, and

WHEREAS, the Board further finds that the extent of the waiver is the minimum necessary to afford relief to the applicant, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land, as the proposed use has exceptional security needs that necessitate a fenced perimeter and will not generate any pedestrian traffic, and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19DEVPLAN1009 does hereby **APPROVE** Waiver #1 from Land Development Code Section 5.5.1.A.3.a to permit the proposed parking lot to be located closer to the right-of-way than the primary structure, Waiver #2 from Land Development Code Section 5.5.1.A.4.b to allow loading docks to be located on the façade facing West Magnolia Ave., Waiver #3 from Land Development Code Section 5.5.1.A.3.d to not provide a vehicular connection to the adjacent property to the west, and Waiver #4 from Land Development Code Section 5.9.2.A.3.d to not provide a pedestrian connection to the Louis Coleman Jr. Dr. right-of-way.

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

PUBLIC HEARING

CASE NUMBER 19DEVPLAN1009

The vote was as follows:

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

00:06:50 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:

Category 3 Development Plan:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that all of the applicable Guidelines and Policies of Plan 2040 are being met; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19DEVPLAN1009 does hereby **APPROVE** Category 3 Development Plan.

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

PUBLIC HEARING

CASE NUMBER 19CUP1001

Request: Conditional Use Permit for short term rental of a dwelling unit located in a TNZD district
Project Name: Garvin Place Short Term Rental
Location: 1036 Garvin Place
Owner/Applicant/Host: Alex Kenemer
Jurisdiction: Louisville Metro
Council District: 6 – David James
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:

00:09:00 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:

Alex Kenemer, 1036 Garvin Place, Louisville, KY 40203
Marissa Leese, 1036 Garvin Place, Louisville, KY 40203

Summary of testimony of those in favor:

00:12:24 Alex Kenemer and Marissa Leese spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:17:08 Joe Haberman, Planning & Design Manager, spoke in regard to owner/host occupied CUP's as relates to the proposed changes to the

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

PUBLIC HEARING

CASE NUMBER 19CUP1001

Ordinance. Mr. Haberman, the applicant, and the Board Members discussed this (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

00:21:38 Board Members' deliberation

00:30:45 On a motion by Vice Chair Fishman, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, the presentation, 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 appear 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.

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

PUBLIC HEARING

CASE NUMBER 19CUP1001

- 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 four bedrooms; LDC regulations permit up to 12 guests.**
- 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 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. **Based on LDC standards, the street frontage can be credited with two spaces; there is no off-street parking available.**
- 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 19CUP1001 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit located in a TNZD district (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

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

PUBLIC HEARING

CASE NUMBER 19CUP1001

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 ten (10), or that permitted by the Louisville Metro Code of Ordinances.

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

PUBLIC HEARING

CASE NUMBER 18CUP1208

Request: Conditional Use Permit for a short term rental unit that is not the primary residence of the host
Project Name: Short Term Rental
Location: 912 Vine Street
Owner: Creative Resolutions, LLC, by Santosh Bhatt
Applicant: David Orange
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith
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:

00:32:28 Steve Hendrix presented the case and showed a Powerpoint presentation. Mr. Hendrix responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

David Orange, 1427 Texas Ave., Louisville, KY 40217

Summary of testimony of those in favor:

00:38:59 David Orange 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
May 6, 2019

PUBLIC HEARING

CASE NUMBER 18CUP1208

00:44:24 Board Members' deliberation

00:46:18 On a motion by Vice Chair Fishman, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, the discussion, and the presentation, 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. No exterior construction or alterations to the building or the site will be required, and

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

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 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 house has two bedrooms which would allow for eight guests.**
- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted. **The dwelling unit is a single family residence.**
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

PUBLIC HEARING

CASE NUMBER 18CUP1208

- 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. **One parking credit exists along Vine Street in front of the house. A parking pad in the rear will accommodate three vehicles, according to the applicant.**
- 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 18CUP1208 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling that is not the primary residence of the host in an R-6 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 applicant shall provide a hard and durable surface parking area to accommodate up to three vehicles at the rear of the property.

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

PUBLIC HEARING

CASE NUMBER 18CUP1208

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

PUBLIC HEARING

CASE NUMBER 18CUP1211

Request:	Conditional Use Permit for a short term rental unit that is not the primary residence of the host
Project Name:	Short Term Rental
Location:	1019 Lydia Street
Owner:	Uncle Karl Dyson LLC, by James Thomas
Applicant:	David Orange
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
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:

00:50:06 Steve Hendrix presented the case and showed a Powerpoint presentation. Mr. Hendrix responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

David Orange, 1427 Texas Ave., Louisville, KY 40217

Summary of testimony of those in favor:

00:53:32 David Orange 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
May 6, 2019

PUBLIC HEARING

CASE NUMBER 18CUP1211

00:55:35 Board Members' deliberation

00:55:52 On a motion by Member Leanhart, seconded by Vice Chair Fishman, the following resolution, based upon the Standard of Review and Staff Analysis, and the presentation, 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. No exterior construction or alterations to the building or the site will be required, and

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

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 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 house has three bedrooms which would allow for ten guests.**
- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted. **The dwelling unit is a single family residence.**

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

PUBLIC HEARING

CASE NUMBER 18CUP1211

- 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. **One parking credit exists along Lydia Street in front of the house. A parking pad in the rear will accommodate two vehicles.**
- 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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1211 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling that is not the primary residence of the host 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 six (6), or that permitted by the Louisville Metro Code of Ordinances.

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

PUBLIC HEARING

CASE NUMBER 18CUP1211

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

PUBLIC HEARING

CASE NUMBER 18CUP1214

Request:	Conditional Use Permit for a short term rental unit that is not the primary residence of the host
Project Name:	Short Term Rental
Location:	109 North Bellaire Avenue
Owner:	Garvey Properties LLC, by Wayne Garvey
Applicant:	David Orange
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
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:

00:57:22 Steve Hendrix presented the case and showed a Powerpoint presentation. Mr. Hendrix responded to questions from the Board Members (see staff report and recording for detailed presentation). (Fourth recording during this testimony)

The following spoke in favor of the request:

David Orange, 1427 Texas Ave., Louisville, KY 40217

Summary of testimony of those in favor:

00:01:12 David Orange spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

PUBLIC HEARING

CASE NUMBER 18CUP1214

The following spoke in opposition of the request:

No one spoke.

00:02:49 Board Members' deliberation

00:03:11 On a motion by Member Leanhart, 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 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. No exterior construction or alterations to the building or the site will be required, and

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

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 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 house has one bedroom which would allow six guests.**

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

PUBLIC HEARING

CASE NUMBER 18CUP1214

- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted. ***The dwelling unit is 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. ***One parking credit exists along North Bellaire Avenue in front of the house.***
- 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 18CUP1214 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling that is not the primary residence of the host in an R-6 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.

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

PUBLIC HEARING

CASE NUMBER 18CUP1214

3. The maximum number of guests permitted in the short term rental shall be the lesser of four (4), or that permitted by the Louisville Metro Code of Ordinances.

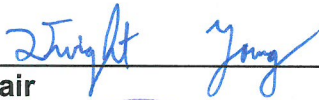
The vote was as follows:

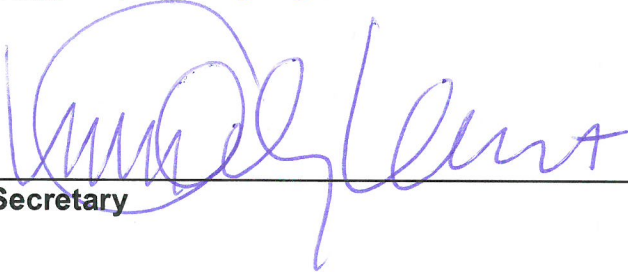
Yes: Members Buttorff, Jagoe, Turner, Howard, Leanhart, Vice Chair Fishman, and Chair Young

BOARD OF ZONING ADJUSTMENT MINUTES
May 6, 2019

00:05:05 Prior to adjournment, Joe Haberman, Planning & Design Manager, provided a brief training for the Board Members regarding Short Term Rental proposed Ordinance Amendments and showed a Powerpoint presentation. The Board Members discussed the proposed amendments, and Mr. Haberman responded to questions from the Board Members. (Fifth recording during this presentation)

The meeting adjourned at approximately 5:45 p.m.


Chair


Secretary