

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

October 16, 2017

A meeting of the Louisville Metro Board of Zoning Adjustment was held on October 16, 2017 at 8:30 a.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Mike Allendorf, Chair
Betty Jarboe, Vice Chair
Rosalind Fishman, Secretary
Lula Howard

Members Absent:

Lester Turner
Dwight Young

Staff Members Present:

Joe Haberman, Planning & Design Manager
Steve Hendrix, Planning & Design Supervisor
Brian Mabry, Planning & Design Supervisor
Jon Crumbie, Planning & Design Coordinator
Beth Jones, Planner II
Dante St. Germain, Planner I
Jay Lockett, Planner I
Paul Whitty, Legal Counsel
Travis Fiechter, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

OCTOBER 2, 2017 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:02:19 On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on October 2, 2017.

The vote was as follows:

Yes: Members Fishman, Howard, Vice Chair Jarboe, and Chair Allendorf

Absent: Members Turner, and Young

BOARD OF ZONING ADJUSTMENT MINUTES
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BUSINESS SESSION

CASE NUMBER 17CUP1082

Request:	Modification of an approved Conditional Use Permit to allow a playground for a day care facility in an R-5 zoning district
Project Name:	Trinity House Volunteer Project
Location:	4106 Greenwood Ave.
Owner:	Trinity House Child Care, Inc.
Applicant:	Scott Shaver
Representative:	Scott Shaver
Jurisdiction:	Louisville Metro
Council District:	1 – Jessica Green
Case Manager:	Brian Mabry, AICP, Planning Supervisor

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and 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:

00:03:49 Brian Mabry presented the case and showed the site plan. Mr. Mabry responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Scott Shaver, 11303 Jefferson Trace Boulevard, Louisville, KY 40291

Summary of testimony of those in favor:

00:07:06 Scott Shaver spoke in favor of the request (see recording for detailed presentation).

00:07:59 Board Members' deliberation

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BUSINESS SESSION

CASE NUMBER 17CUP1082

00:08:26 On a motion by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the applicable policies of the Comprehensive Plan, and

WHEREAS, the Board further finds that the proposal is compatible with the general character of the surrounding neighborhoods in terms of scale, intensity, traffic, noise, drainage and appearance. The proposal consists of removing existing parking, replacing the paved area with a playground, and relocating the parking elsewhere on-site, and

WHEREAS, the Board further finds that the proposal has been reviewed by MSD and Transportation Planning and both have approved the plan. In addition, the site has functioned for years and utilized such public facilities, and

WHEREAS, the Board further finds that:

Day Care Facilities may be allowed in the R-R, R-E, R-1, R-2, R-3, U-N, R-5A, R-5B, R-6, and R-7 districts upon the granting of a Conditional Use Permit and in compliance with the listed requirements.

- A. Signs - There shall be allowed one non-illuminated sign identifying the name and use, which sign shall be limited in size to four square feet and be placed on the building.
- B. Residential Structure - The structure shall remain or shall be constructed so that the exterior design and ornamentation is residential in character and compatible with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential (except for the sign).
- C. Alterations or Improvements to the Structure - Where such a use is permitted in a structure which has been used as a residence, the permittee shall make no substantial alterations or improvements to the structure which would impair the structure's use as a residence at a later time.
- D. On-Site Drop-off and Pick-up Area - An on-site area shall be provided where passengers from automobiles may safely exit the automobile and

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enter the building and vice versa. The design of this area must be approved by the appropriate agency responsible for transportation planning.

- E. Parking Spaces - The appropriate number of parking spaces shall be provided for members of the day care center staff. The number of parking spaces required pursuant to this section shall be determined by the Board of Zoning Adjustment, and may thereafter be modified by the Board of Zoning Adjustment by petition from the owner of the premises granted a Conditional Use Permit or upon recommendation from the zoning inspector or other authorized personnel after an annual inspection of the premises or other such inspection. The parking layout must be approved by the appropriate agency responsible for transportation planning.
- F. Drainage Control - The development plan shall have the approval of the appropriate agency responsible for surface drainage control.
- G. All buildings and structures shall conform to the requirements of the zoning and form district in which they are located.
- H. Fence - A fence with a minimum height of 4 feet shall be erected around the outdoor play area.
- I. Alterations or Improvements to the Property – Where such a use is permitted on a lot with an existing residential structure; the residential character of the lot shall not be disturbed by exterior changes to the property that are visible from the public street. Off- street parking shall not be located within the front and/or street-side yards. Drop- off and pick-up shall not be located in front yard and/or street-side yard of the existing residential structure, except for driveways approved by Metro Public Works.
- J. Conditional use permits for Day Care Facilities in R-4 and R-5 zoning districts issued prior to the effective date of this ordinance (March 9, 2011) may continue to operate as authorized under the approved conditional use permit. Upon request by an applicant, such conditional use permits may be modified in any manner the Board determined, in its discretion, to be appropriate; now, therefore be it

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CASE NUMBER 17CUP1082

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1082 does hereby **APPROVE** Modification of an approved Conditional Use Permit to allow a playground for a day care facility in an R-5 zoning district, based upon the Staff Report, the site plan and the testimony of the applicant, and **SUBJECT** to the existing Conditions of Approval:

Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit modification shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a day care center without further review and approval by the Board.
3. The maximum number of employees on any given shift shall be 4.
4. The maximum number of children on any given shift shall be 31.
5. The maximum number of clients shall be limited to 69.
6. The maximum number of staff shall be limited to 11.
7. The day care will operate 24 hours, 7 days a week and have the following shifts: 6:00 a.m. - 2:00 p.m., 2:00 p.m. - 10:00 p.m., and 10:00 p.m. - 6:00 a.m.
8. Reduce the required parking from 10 to 8. Also, the location of the parking will change.

The vote was as follows:

Yes: Members Fishman, Howard, Vice Chair Jarboe, and Chair Allendorf
Absent: Members Turner, and Young

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PUBLIC HEARING

CASE NUMBER 17VARIANCE1059

Request:	Variance to allow a structure to encroach into the required side yard setback
Project Name:	1133 Everett Avenue Addition
Location:	1133 Everett Avenue
Owner:	Matthew Hawkins
Applicant:	Matthew Hawkins
Representative:	Matthew Hawkins
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Dante St. Germain, 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:

00:10:54 Dante St. Germain presented the case and showed a Powerpoint presentation. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Matt Hawkins, 1809 Edenside Avenue, Louisville, KY

Summary of testimony of those in favor:

00:14:36 Matt Hawkins 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 17VARIANCE1059

00:16:01 Board Members' deliberation

00:16:36 On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the encroachment is relatively small and is in line with an existing encroachment by the principal structure, which has caused no known adverse effects, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the reduced side yard setback is present with the principal structure and was present with the previous addition, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the addition will be constructed according to building code and will not be visible from the right-of- way, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the addition is proposed to be located on the same footprint as the prior addition, in line with the existing principal structure, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the principal structure already encroaches into the side yard, and the addition is proposed to be in line with this structure, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the addition is proposed to be located on the same footprint as the previous addition, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not yet constructed the addition, and

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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 17VARIANCE1059 does hereby **APPROVE** Variance from Land Development Code Table 5.2.2 to allow a structure to encroach into the required side yard setback (**Requirement 3 ft., Request 2 ft., Variance 1 ft.**), based upon the Staff Report, the discussion, the applicant's justification and the Certificate of Appropriateness from the Historic Landmarks and Preservation Districts Commission.

The vote was as follows:

Yes: Members Fishman, Howard, Vice Chair Jarboe, and Chair Allendorf
Absent: Members Turner, and Young

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CASE NUMBER 17VARIANCE1039

Request:	Variance to allow a structure to exceed maximum setback and corner lot setback standards in Traditional Neighborhood form district
Project Name:	Oscar's Hardware
Location:	1515 S Shelby St
Owner:	Paul Fussenegger
Applicant:	Patrick Miller
Representative:	Patrick Miller
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
Case Manager:	Jay Lockett, 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:

00:18:52 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:

Patrick Miller, 1200 Delor Avenue, Louisville, KY 40217

Summary of testimony of those in favor:

00:24:48 Patrick Miller spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:26:54 Jay Lockett 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.

00:27:45 Board Members' deliberation

00:28:11 On a motion by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

Variance from Land Development Code Table 5.2.2 to allow a structure to exceed the maximum front setback:

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 lot is currently a vacant auto lot and this development will improve the existing conditions considerably, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity, as the plan will incorporate a plaza, masonry wall and plantings to bring the overall site focus to the corner, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public, as the development will be constructed to all appropriate building standards and allow for safe circulation of vehicular and pedestrian traffic around and through the site, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations, as the bulk of the development will be the existing building, which complies with zoning regulations, and

WHEREAS, the Board further finds that the request results from a proposed expansion of an existing structure, and the applicant wishes to maintain a front entrance with ADA accessible spaces as close to the entrance as possible, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship, as the internal layout of the store would have to be significantly altered to build an expansion within the regulations, and

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WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not yet constructed the addition, 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 17VARIANCE1039 does hereby **APPROVE** Variance from Land Development Code Table 5.2.2 to allow a structure to exceed the maximum front setback **(Requirement 25 ft., Request 72 ft., Variance 47 ft.)**, based upon the Staff Report, the applicant's justification statement and the site plan.

The vote was as follows:

Yes: Members Fishman, Howard, Vice Chair Jarboe and Chair Allendorf
Absent: Members Turner, and Young

00:29:28 On a motion by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

Variance from Land Development Code Section 5.5.1.A.2 to exceed the Traditional Form district corner lot setback standards:

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 lot is currently a vacant auto lot and this development will improve the existing conditions considerably, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity, as the plan will incorporate a plaza, masonry wall and plantings to bring the overall site focus to the corner, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public, as the development will be constructed to all appropriate building standards and allow for safe circulation of vehicular and pedestrian traffic around and through the site, and

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WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations, as the store would have to be expanded beyond what is reasonable for the scale of the business in order to reduce the corner setbacks to 5 Ft or less, and

WHEREAS, the Board further finds that the request results from a proposed expansion of an existing structure which is not currently on a corner lot, yet becomes a corner lot once the lots are consolidated, 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 store cannot expand without utilizing the corner lot, but cannot reasonably expand to a large enough side to meet all setbacks, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not yet constructed the addition, 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 17VARIANCE1039 does hereby **APPROVE** Variance from Land Development Code Section 5.5.1.A.2 to exceed the Traditional Form district corner lot setback standards (**FRONT: Requirement 5 ft., Request 88 ft., Variance 83 ft.,**) and (**SIDE: Requirement 5 ft., Request 47 ft., Variance 42 ft.,**) based upon the Staff Report, the site plan and the applicant's justification statement.

The vote was as follows:

Yes: Members Fishman, Howard, Vice Chair Jarboe and Chair Allendorf
Absent: Members Turner, and Young

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PUBLIC HEARING

CASE NUMBER B-17987-12

Request:	Condition of Approval
Project Name:	B-17987-12
Location:	7331 Global Drive
Owner:	Yamamoto FB Engineering
Applicant:	Yamamoto FB Engineering
Representative:	Darryl Keels
Jurisdiction:	Louisville Metro
Council District:	12 – Rick Blackwell
Case Manager:	Steve Hendrix, Planning Supervisor

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

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

Agency Testimony:

00:30:39 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).

The following spoke in favor of the request:

Darryl Keels, 7331 Global Drive, Louisville, KY 40258

Summary of testimony of those in favor:

00:36:46 Darryl Keels 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:

Myra and Tommy Hillerich, 7608 Tommie Court, Louisville, KY 40258
Dave Reese, 7603 Cane Run Road, Louisville, KY 40258

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PUBLIC HEARING

CASE NUMBER B-17987-12

Charles Conner, 7604 Tommie Court, Louisville, KY 40258

Summary of testimony of those in opposition:

00:44:15 Myra and Tommy Hillerich spoke in opposition of the request. Myra Hillerich stated it seems to have gotten better at night, but during the day the doors are always open. Myra Hillerich asked where the inspectors were listening from when they made the inspections. Chair Allendorf stated all the inspectors were charged with was whether the doors were closed or not, since the noise issue has been previously addressed (see recording for detailed presentation).

00:52:03 Dave Reese spoke in opposition of the request. Mr. Reese stated he never, ever sees the doors closed. Mr. Reese responded to questions from the Board Members (see recording for detailed presentation).

00:59:06 Charles Conner spoke in opposition of the request (see recording for detailed presentation).

REBUTTAL:

01:03:08 Darryl Keels spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

01:15:49 Board Members' deliberation

01:24:08 On a motion by Member Howard, seconded by Member Fishman, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the property owner has attempted to mitigate the noise to adjacent neighbors by opening the garage doors only as needed during the hours of 7:00 p.m. and 7:00 a.m.; now, therefore be it

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PUBLIC HEARING

CASE NUMBER B-17987-12

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number B-17987-12 does hereby find that Condition of Approval #2A which states “Codes and Regulations shall inspect the site after the seismographic analysis is complete and verify the applicant’s attempts to mitigate the noise to the adjacent neighbors by opening the garage doors only as needed during the hours of 7:00 p.m. and 7:00 a.m. The facts to be determined by Planning & Design Zoning Enforcement with the cooperation of Staff and Legal Counsel and report the findings to the Board of Zoning Adjustment on a two-month periodic basis for a period of six months”, has been **MET**, based upon the Staff Report, and the testimony and evidence heard today.

The vote was as follows:

Yes: Members Fishman, Howard, Vice Chair Jarboe, and Chair Allendorf
Absent: Members Turner, and Young

01:25:15 Meeting was recessed.

01:25:34 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 16CUP1001

Request:	Aqua Code System Report
Project Name:	16CUP1001
Location:	1200 Story Avenue
Owner:	JBS USA, LLC & Swift Pork Company
Applicant:	JBS USA, LLC & Swift Pork Company
Representative:	Glenn Price
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Steve Hendrix, Planning Supervisor

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and 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:

01:25:52 Steve Hendrix presented the case and referred to a brief Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Glenn Price, 400 W. Market Street, Suite 3200, Louisville, KY 40202
Dennis Conniff, 400 W. Market Street, Suite 3200, Louisville, KY 40202
Tim Stern, 1200 Story Avenue, Louisville, KY 40206

Summary of testimony of those in favor:

01:26:57 Glenn Price spoke in favor of the request (see recording for detailed presentation).

01:28:02 Dennis Conniff spoke in favor of the request. Mr. Conniff stated the use of the Aqua Code System in the scrubbers is no longer being considered by

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Swift. Mr. Conniff stated the problem was that the Aqua Code System could not reliably produce the results that met one of the requirements of the permit related to oxygen reduction potential. Mr. Conniff stated Swift has now installed an automated system on all three of the scrubbers. Mr. Conniff stated Swift has entered into an agreed board order with the Air Pollution Control District to resolve odor violations that had occurred in early 2016 and earlier. Mr. Conniff stated Swift has had a comprehensive audit of its scrubber system conducted by an independent third party and that report includes recommendations for actions to be taken to improve the operations of the scrubber system. Mr. Conniff stated that under the conditions of the agreed board order, Swift now has until the end of November to submit a schedule for implementation of all of the recommendations (see recording for detailed presentation).

01:31:45 Tim Stern spoke in favor of the request. Mr. Stern explained how the automated system on the scrubbers works. Mr. Stern responded to questions from the Board Members (see recording for detailed presentation).

01:33:48 Dennis Conniff responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

01:38:25 Board Members' deliberation

01:39:20 Public Hearing was reopened to ask the applicant when they would be available to provide an additional update. Mr. Price stated that should be just after the first of the year (see recording for detailed presentation).

01:41:03 On a motion by Member Fishman, seconded by Member Howard, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 16CUP1001 does hereby **CONTINUE** the case to the February 5, 2018 Board of Zoning Adjustment Public Hearing

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CASE NUMBER 16CUP1001

The vote was as follows:

Yes: Members Fishman, Howard, Vice Chair Jarboe, and Chair Allendorf

Absent: Members Turner, and Young

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PUBLIC HEARING

CASE NUMBER 17CUP1016

Request:	Conditional Use Permit to allow a short term rental in an R-5B zoning district
Project Name:	None
Location:	1510 Highland Avenue
Owner:	Matthew Barber and William Barber
Applicant:	Alexandria Wallace
Representative:	Alexandria Wallace
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Jon E. Crumbie, Planning and Design Coordinator

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

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

Agency Testimony:

01:42:04 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Alexandria Wallace, 1234 Lydia Street, Louisville, KY 40217

Summary of testimony of those in favor:

01:46:39 Alexandria Wallace 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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CASE NUMBER 17CUP1016

01:49:30 Board Members' deliberation

01:49:56 On a motion by Member Fishman, seconded by Vice Chair Jarboe, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the applicable policies of the Comprehensive Plan, and

WHEREAS, the Board further finds that the underlying use of the property shall remain the same (two- family dwelling). The proposal only involves allowing short term rentals within the existing dwelling units. No additional development is proposed. As such, the proposal is compatible with the surrounding land uses with respect to height, bulk, scale, intensity, traffic, noise, odor, drainage, lighting and appearance, and

WHEREAS, the Board further finds that the underlying use of the property shall remain the same (two-family dwelling). The proposal only involves allowing short term rentals within the existing dwelling units. No additional development is proposed. MSD and Transportation Planning have approved the proposal, and

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **Each dwelling unit has 2 bedrooms which will allow a maximum of 8 occupants for each unit.**

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CASE NUMBER 17CUP1016

- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted.
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **The property has parking on the street and at the rear along the alley.**
- 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, 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 17CUP1016 does hereby **APPROVE** Conditional Use Permit to allow short term rental in an R-5B Zoning District that is not the primary residence of the host, based upon the Staff Report, the presentation, the applicant's justification and the discussion, and **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.

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The vote was as follows:

Yes: Members Fishman, Howard, Vice Chair Jarboe, and Chair Allendorf

Absent: Members Turner, and Young

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PUBLIC HEARING

CASE NUMBER 17CUP1017

Request:	Conditional Use Permit to allow a short term rental in an UN zoning district
Project Name:	None
Location:	1411 Christy Avenue
Owner:	Matthew Barber and William Barber
Applicant:	Alexandria Wallace
Representative:	Alexandria Wallace
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Jon E. Crumbie, Planning and Design Coordinator

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

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

Agency Testimony:

01:51:51 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Alexandria Wallace, 1234 Lydia Street, Louisville, KY 40217

Summary of testimony of those in favor:

01:55:12 Alexandria Wallace 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

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01:57:17 Board Members' deliberation

01:59:03 On a motion by Member Fishman, seconded by Vice Chair Jarboe, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the applicable policies of the Comprehensive Plan, and

WHEREAS, the Board further finds that the underlying use of the property shall remain the same (single family dwelling). The proposal only involves allowing short term rentals within the existing dwelling units. No additional development is proposed. As such, the proposal is compatible with the surrounding land uses with respect to height, bulk, scale, intensity, traffic, noise, odor, drainage, lighting and appearance, and

WHEREAS, the Board further finds that the underlying use of the property shall remain the same (single family dwelling). The proposal only involves allowing short term rentals within the existing dwelling units. No additional development is proposed. MSD and Transportation Planning have approved the proposal, and

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **The dwelling unit has 2 bedrooms which will allow a maximum of 8 occupants.**

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- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted.
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **The frontage of the property can accommodate vehicular parking: the owners of the property use the detached garage at the rear of the property for storage.**
- 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, 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 17CUP1017 does hereby **APPROVE** Conditional Use Permit to allow short term rental in an UN Zoning District that is not the primary residence of the host, based upon the Staff Report, the applicant's justification, the discussion and the presentation, and **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.

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2. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.

The vote was as follows:

Yes: Member Fishman, Vice Chair Jarboe, and Chair Allendorf

Abstain: Member Howard

Absent: Members Turner, and Young

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CASE NUMBER 17CUP1055

Request:	Modified Conditional Use Permit and landscape waiver to allow an 84,000 square foot pari-mutuel wagering facility in an R-1 zoning district
Project Name:	Trackside
Location:	4520 Poplar Level Road
Owner:	Churchill Downs, Inc.
Applicant:	Churchill Downs, Inc.
Representative:	William Bardenwerper
Jurisdiction:	Louisville Metro
Council District:	21 – Dan Johnson
Case Manager:	Jon E. Crumby, 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:

02:01:27 Jon Crumby presented the case and showed a Powerpoint presentation. Mr. Crumby responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223
Kevin Young, 503 Washburn Ave., Louisville, KY 40222
Kevin Flanery, 700 Central Ave., Louisville, KY 40208

Summary of testimony of those in favor:

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02:05:54 Nick Pregliasco spoke in favor of the request and showed a Powerpoint presentation. Mr. Pregliasco responded to questions from the Board Members (see recording for detailed presentation).

02:15:34 Kevin Young spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:19:07 Nick Pregliasco and Kevin Young responded to questions from the Board Members (see recording for detailed presentation).

02:23:24 Kevin Flanery spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

02:25:03 Board Members' deliberation

02:25:46 On a motion by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

Modification of an approved Conditional Use Permit to allow the construction of a pari-mutuel wagering building and related improvements:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the applicable policies of the Comprehensive Plan, and

WHEREAS, the Board further finds that the proposal is compatible with the general character of the surrounding neighborhoods in terms of scale, intensity, traffic, noise, drainage and appearance, and

WHEREAS, the Board further finds that the proposal has been reviewed by MSD and Transportation Planning and both have approved the plan, and

WHEREAS, the Board further finds that:

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Special Use Permit standards from the 1963 regulations:

1. All buildings and structures shall be at least 100 feet from all property lines. **The proposed building is approximately 75 feet from the rear property line.**
2. A minimum of 1 off-street parking space shall be provided for each 5 seats in the grandstand.
3. Parking areas and drive shall be surfaced with a hard and durable material and properly drained.
4. Except in districts where signs are allowed, one sign, not to exceed 100 square feet in area, may be located at each of the major entrances. Sign facing a residential district shall be a non-flashing type; and

Landscape Waiver to reduce the required landscape buffer area along the rear of the property adjacent to Evergreen Cemetery:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as the applicant will be adding a wood privacy fence and landscaping requirements will be met, and

WHEREAS, the Board further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized,

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suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the property line is adjacent to a cemetery, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulations would deprive the applicant of the reasonable use of land or would create an unnecessary hardship on the applicant as the drive lane is an existing condition; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17CUP1055 does hereby **APPROVE** Modification of an approved Conditional Use Permit to allow the construction of a pari-mutuel wagering building and related improvements, and Landscape Waiver to reduce the required landscape buffer area along the rear of the property adjacent to Evergreen Cemetery **(Requirement 25 feet, Request 15 feet, Waiver 10 feet)**, based upon the Staff Report, the applicant's testimony and site plans, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for pari-mutuel wagering facility without further review and approval by the Board.

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The vote was as follows:

Yes: Members Fishman, Howard, Vice Chair Jarboe, and Chair Allendorf
Absent: Members Turner, and Young

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CASE NUMBER 17VARIANCE1040

Request:	Variance to allow a structure to exceed maximum permitted height
Project Name:	Office and Retail Center
Location:	13905 Promenade Green Way
Owner:	Oreo 4 LLC
Applicant:	Shulte Design and Construction
Representative:	Jamie Lee Cox, Vice Cox & Townsend PLLC
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton
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:

02:28:29 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:

Sammy Van Pelt, 6516 Lovers Lane, Louisville, KY 40291
Brent Rigue, 2000 High Wickham Place, Louisville, KY 40245

Summary of testimony of those in favor:

02:39:06 Sammy Van Pelt spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 17VARIANCE1040

02:40:15 Brent Rigue spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

02:45:53 Board Members' deliberation

02:48:36 On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the additional building height will not deprive adjacent properties or the public right-of-way of light, air or privacy, and

WHEREAS, the Board further finds that the request will result in a three-story structure, as compared to the two-story structures on an adjoining parcel. There is, however, another three-story structure currently under construction on a nearby site included as part of the General Development Plan for the Old Henry Crossings development (Case No. 09-099-98), and

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

WHEREAS, the Board further finds as there is another three-story structure currently under construction on a nearby site included as part of the General Development Plan for the subject site (Case No. 09-099-98), the request is not unreasonable, and

WHEREAS, the Board further finds that there are no special circumstances on the land in this site which would necessitate this variance request, and

WHEREAS, the Board further finds that the zoning regulation from which relief is being sought was in place before the applicant proposed this development, and

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

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CASE NUMBER 17VARIANCE1040

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17VARIANCE1040 does hereby **APPROVE** Variance from LDC 5.3.1, Table 5.3.2 to permit a building height of 45 ft. (**Requirement 35 ft., Request 45 ft., Variance 10 ft.**), based upon the Staff Report, the applicant's justification and the fact that there are buildings of similar height in the vicinity.

The vote was as follows:

Yes: Members Fishman, Howard, Vice Chair Jarboe, and Chair Allendorf
Absent: Members Turner, and Young

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CASE NUMBER 17CUP1059

Request:	Conditional Use Permit for an Accessory Apartment
Project Name:	15501 Floydsviue Place
Location:	15501 Floydsviue Place
Owner:	Tom and Leslie Lovelace
Applicant:	Tom and Leslie Lovelace
Representative:	Tom and Leslie Lovelace
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton
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:

02:50:30 Beth Jones presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Leslie Lovelace, 15501 Floydsviue Place, Louisville, KY 40245

Summary of testimony of those in favor:

02:54:14 Leslie Lovelace 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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02:58:31 Board Members' deliberation

02:58:57 On a motion by Vice Chair Jarboe, seconded by Member Fishman, the following resolution was adopted:

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

WHEREAS, the Board further finds that the proposal is consistent with surrounding uses, and

WHEREAS, the Board further finds that the site is not currently served by MSD and the proposed development will require an additional septic system. The Louisville Metro Department of Public Health and Wellness has reviewed the proposal and approved this additional septic system, with specific stipulations that will be included as Conditions of Approval, and

WHEREAS, the Board further finds that:

4.2.3. Accessory Apartments Accessory Apartments may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5 and U-N districts upon the granting of a conditional use permit and compliance with the listed requirements:

- A. The principal and accessory dwellings shall be owned by the same person(s). Occupancy of the accessory unit shall occur only while the property owner(s) resides in the principal dwelling on the premises. **The principal and accessory buildings are under the same ownership.**
- B. The accessory apartment shall be no greater than 650 sq ft or 30% of the floor area of the principal residence, whichever is greater. **The proposed accessory apartment is 21% of the principal residence floor area and meets this requirement.**
- C. If the accessory apartment is located in a freestanding structure, it shall not exceed the height of the principal residence. In the TNFD, permissible height shall be as allowed by the form district regulation, unless the Board approves a differing height. In all other form districts, if the freestanding structure is located within 25 feet of a property line, the height of the structure shall not exceed the

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average height of accessory structures on abutting parcels or 15 feet, whichever is greater, unless the Board finds that a different height limit is appropriate. **The proposed accessory apartment building is one-story and does not exceed the height of the existing primary structure, according to the applicant.**

D. Sites having accessory apartments shall provide off-street parking for the principal and accessory apartment as follows:

1. Neighborhood Form District - at least three off-street spaces provided on the lot, no more than two spaces outdoors;
2. Traditional Neighborhood - at least one off-street space provided on the lot;
3. Other form districts - at least two off-street spaces provided on the lot; the Board may require additional parking spaces as appropriate. **Existing site development includes a three-vehicle garage and paved area sufficient to accommodate two vehicles. The proposed accessory apartment includes an additional driveway space and a one-vehicle attached carport,** 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 17CUP1059 does hereby **APPROVE** Conditional Use Permit for an Accessory Apartment (LDC 4.2.3), based upon the Staff Report, the site plans, the applicant's justification, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. All development shall be in accordance with the approved district development plan, including all notes thereon, and with all applicable sections of the Land Development Code (LDC). No further development shall occur on the site without prior review of and approval by the Board of Zoning Adjustment (BOZA).
2. The Conditional Use Permit shall be exercised as proscribed by KRS 100.237 within two years of BOZA approval. If it is not so exercised, the site

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shall not be used for an Accessory Apartment without further review and approval by BOZA.

3. A Certificate of Occupancy shall not be issued until such time as the following requirements are met:
 - a. A separate onsite sewage disposal permit shall be obtained from the Department for Public Health and Wellness for a second sewage disposal system to service the accessory apartment, as there is not sufficient repair area available to replace the existing system (Permit #S97-46) to enable it to serve both residences.
 - b. A note shall be added to the deed to ensure no further subdivision of the property until such time as sanitary sewer service becomes available. A copy of the amended deed shall be submitted to Develop Louisville.

The vote was as follows:

Yes: Members Fishman, Howard, Vice Chair Jarboe, and Chair Allendorf

Absent: Members Turner, and Young

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CASE NUMBER 17CUP1057

Request:	Conditional Use Permit to allow a short term rental of a dwelling unit in the TNZD
Project Name:	Short-Term Rental
Location:	1209 & 1211 S. 6th Street
Owner:	Joshua Adams
Applicant:	Joshua Adams
Representative:	Joshua Adams
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:

03:01:46 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:

Vincent Joshua Adams, 1211 S. 6th Street, Louisville, KY 40203

Summary of testimony of those in favor:

03:06:09 Vincent Joshua Adams 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.

03:08:20 Board Members' deliberation

03:09:09 On a motion by Member Fishman, seconded by Vice Chair Jarboe, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal does not conflict with Comprehensive Plan policies, and

WHEREAS, the Board further finds that the proposed use is compatible with surrounding development. No exterior alterations to the existing structure or site are proposed, and

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

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **LDC regulations permit up to 12 guests in the four-bedroom single-family residence at 1211 S. 6th**

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Street. LDC regulations permit up to six guests in the one-bedroom unit at 1209 S. 6th.

- D. The dwelling unit shall be a single-family residence, duplex or condominium. This provision shall not be waived or adjusted. **Both dwelling units, at 1211 and 1209 S. 6th Street are single-family residences.**
- 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. **LDC regulations credit the property frontage of approximately 60 ft with three on-street parking spaces. No off-street parking is 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 17CUP1057 does hereby **APPROVE** Conditional Use Permit to allow short term rental of two dwelling units in the TNZD, based upon the Staff Report, the discussion, the presentation, and **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

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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 front porch at the dwelling unit at 1211 S. 6th Street shall not be used after 11:00pm.
4. The total number of persons, including guests and their visitors, at each dwelling unit shall not at any time exceed the number permitted as guests by LDC regulations.

The vote was as follows:

Yes: Members Fishman, Howard, Vice Chair Jarboe, and Chair Allendorf

Absent: Members Turner, and Young

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CASE NUMBER 17CUP1073

Request:	Conditional Use Permit, variance, and landscape buffer area waiver for off-street parking in an R-4 zoning district
Project Name:	Vehicular Parking and Maneuvering Area
Location:	9808 Brownsboro Rd.
Owner:	Northeast Christian Church of Jefferson County
Applicant:	Jon Baker, Wyatt, Tarrant & Combs, LLC
Representative:	Jon Baker, Wyatt, Tarrant & Combs, LLC
Jurisdiction:	Louisville Metro
Council District:	17 – Glen Stuckel
Case Manager:	Brian Mabry, AICP, Planning Supervisor

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and 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:

03:12:05 Brian Mabry presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jon Baker, 500 West Jefferson St., Suite 2800, Louisville, KY 40202

Summary of testimony of those in favor:

03:19:34 Jon Baker spoke in favor of the request and showed a Powerpoint presentation. Mr. Baker 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.

03:32:17 Brian Mabry responded to questions from the Board Members (see recording for detailed presentation).

03:33:37 Board Members' deliberation

03:35:00 On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution was adopted:

Conditional Use Permit for off-street parking in an R-4 zoning district:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the applicable policies of the Comprehensive Plan. Aside from the requested waiver, the required landscaping and tree canopy will be provided, and

WHEREAS, the Board further finds that the proposal is compatible with the general character of the surrounding neighborhoods in terms of scale, intensity, traffic, noise, drainage and appearance, and

WHEREAS, the Board further finds that the proposal has been reviewed by MSD and Transportation Planning and both have provided preliminary approval of the plan. The Louisville #17 Fire Protection District did not comment on the proposal, and

WHEREAS, the Board further finds that:

An Off-Street Parking Area may be permitted in a district where it is ordinarily prohibited, provided it serves a use in a building for which insufficient off-street parking space is provided, and where the provision of such parking space will materially relieve traffic congestion on the streets and when developed in compliance with the listed requirements. **There are six requirements and the proposal complies with all of them except for requirement C, which is related to the variance request.**

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- A. The area shall be located within 200 feet of the property on which the building to be served is located measured by the shortest walking distance (using sidewalks and designated crosswalks).
- B. Walls, fences, or plantings shall be provided in a manner to provide protection for and be in harmony with surrounding residential property.
- C. The minimum front, street side, and side yards required in the district shall be maintained free of parking. **The applicant seeks a variance for the 50-foot side and rear setbacks required in the Regional Center form district where a nonresidential property abuts a residentially zoned property.**
- D. The area shall be used exclusively for transient parking of motor vehicles belonging to invitees of the owner or lessee of said lot.
- E. The approval of all plans and specifications for the improvement, surfacing, and drainage for said parking area will be obtained from the appropriate Director of Works prior to use of the parking area.
- F. The approval of all plans and specifications for all entrances, exits, and lights shall be obtained from the department responsible for transportation planning prior to the public hearing on the Conditional Use Permit, 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 17CUP1073 does hereby **APPROVE** Conditional Use Permit for off-street parking in an R-4 zoning district, based upon the Staff Report noting Item C on Page 3 of the Staff Report which states "the minimum front, street side, and side yards required in the district shall be maintained free of parking" shall be modified as follows; "the applicant seeks a variance for the 50-foot side and rear setbacks required in the Regional Center form district where a nonresidential property abuts a residentially zoned property", the applicant's justification statement, and **SUBJECT** to the following Conditions of Approval:

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Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for off-street parking without further review and approval by the Board.

The vote was as follows:

Yes: Members Fishman, Howard, Vice Chair Jarboe, and Chair Allendorf
Absent: Members Turner, and Young

03:37:08 On a motion by Vice Chair Jarboe, seconded by Member Howard, the following resolution was adopted:

Variance from Section 5.3.3.C.2.b of the LDC to allow off-street parking to encroach into the required side and rear setbacks:

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 parking lot does not interfere with vision clearance on public rights-of-way or at intersections within the private property, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity. The appearance of the proposed parking area aligns with other parking areas in the general vicinity, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public. The subject property does not have direct access to the public right-of-way. In addition, Public Works has reviewed and preliminarily approved the proposal, and

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WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations. The church owns the property adjacent to the setbacks that are subject to the variance request, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone. The subject property is surrounded by property under the same ownership. No other known property in the vicinity is in a similar situation, 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 or create an unnecessary hardship on the applicant. Under a strict application of Section 5.3.3.C.2.b, the property owner would be required to be setback from itself and as a result, lose needed parking spaces, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The parking area has not yet been constructed and the applicant is requesting the variance, and

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

Waiver from Section 10.2.4 to allow off-street parking to encroach into the required landscape buffer area along the perimeter of the site:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners. The subject property is surrounded by property owned by the church. In addition, existing vegetation is proposed to remain along the property line on the side of the cemetery owned by the church. The existing parking lot already buffers the new lot from the nearest residentially-used properties, and

WHEREAS, the Board further finds that the waiver will not violate specific guidelines and policies of Cornerstone 2020. Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and

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mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. These guidelines are not violated because existing parking areas separate the new parking lot from the nearest residentially-used properties, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant. The site layout allows the minimum area needed to accommodate the parking area, 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 or create an unnecessary hardship on the applicant. Under a strict application of Section 10.2.4, the property owner would be required to buffer the parking area from itself and as a result, lose needed parking spaces, 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 17CUP1073 does hereby **APPROVE** Variance from Section 5.3.3.C.2.b of the LDC to allow off-street parking to encroach into the required side and rear setbacks (**EAST PROPERTY LINE: Requirement 50', Request 0', Variance 50'; WEST PROPERTY LINE: Requirement 50', Request 15', Variance 35'; SOUTH PROPERTY LINE: Requirement 50', Request 0', Variance 50'**), and Waiver from Section 10.2.4 to allow off-street parking to encroach into the required landscape buffer area along the perimeter of the site, based upon the Staff Report, the site plan, and the applicant's justification statement.

The vote was as follows:

Yes: Members Fishman, Howard, Vice Chair Jarboe, and Chair Allendorf
Absent: Members Turner, and Young

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ADJOURNMENT

The meeting adjourned at approximately 12:33 p.m.

Chair

Secretary