

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

August 20, 2018

A meeting of the Louisville Metro Board of Zoning Adjustment was held on August 20, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

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

Members Absent:

Mike Allendorf, Chair

Staff Members Present:

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

The following cases were heard:

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APPROVAL OF MINUTES

August 6, 2018 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:03:24 On a motion by Member Turner, seconded by Member Young, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on August 6, 2018.

The vote was as follows:

Yes: Members Buttorff, Turner, and Vice Chair Fishman

Abstain: Member Young, Leanhart, and Howard

Absent: Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 18CUP1076

Request:	Conditional Use Permit to allow a short- term rental that is not the primary residence of the host.
Project Name:	Morton Avenue Short Term Rental
Location:	1419 Morton Avenue
Owner:	Daniel Gilmer Roberge
Applicant:	Key Source Properties, LLC
Jurisdiction:	Louisville Metro
Council District:	8– Brandon Coan
Case Manager:	Steve Hendrix, Planning and Design Coordinator

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

00:04:14 Vice Chair Fishman stated this case has been postponed to a date uncertain (see recording for detailed presentation).

00:04:48 On a motion by Member Howard, seconded by Member Turner, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1076 does hereby **POSTPONE** the case to a date uncertain.

The vote was as follows:

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

Absent: Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 18APPEAL1001

Request:	Review of Land Use Determination
Project Name:	Conley Appeal
Location:	4301 Mud Lane
Owner:	Rickey and Janice Conley
Representative:	Bart L. Greenwald
Jurisdiction:	Louisville Metro
Council District:	13 – Vicki Aubrey Welch
Case Manager:	Chris French, AICP, Planning & Design Supervisor

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

Agency Testimony:

00:05:39 Chris French stated the applicant's representative has requested a continuance of the appeal to October 1, 2018 (see recording for detailed presentation).

00:06:48 On a motion by Member Howard, seconded by Member Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18APPEAL1001 does hereby **CONTINUE** the case to the October 1, 2018 Board of Zoning Adjustment meeting.

The vote was as follows:

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

Absent: Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1067

Request:	Variance to exceed maximum sign area for an attached sign
Project Name:	Family Dollar Sign Area Variance
Location:	6621 Southside Drive
Owner:	Family Dollar Stores of Kentucky
Applicant:	Lenny Lipari - Family Dollar Stores of Kentucky
Representative:	Stacey Martin – Commonwealth Sign Company
Jurisdiction:	Louisville Metro
Council District:	21 – Vitalis Lanshima
Case Manager:	Chris French, 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:

00:07:51 Chris French presented the case and showed a Powerpoint presentation. Mr. French responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Stacey Martin, 1824 Berry Blvd., Louisville, KY 40215

Summary of testimony of those in favor:

00:12:08 Stacey Martin 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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00:13:03 **Board Members' deliberation**

00:13:31 On a motion by Member Howard, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony heard today, and the applicant's variance justification, was adopted:

Variance from Land Development Code (July 2018a) 8.3.3, Table 8.3.2 for a proposed replacement attached static sign to exceed the 60 sq. ft. on the Evangeline Avenue façade frontage on a C-1 zoned parcel within the Traditional Neighborhood Form District:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the applicant has stated in their justification "The new rebranding look is a fresh, more modernized looking sign. This alone adds value and not an eye sore for surrounding neighbors. It would have a positive effect. Staff finds that the existing signs are larger than what is proposed." The proposed replacement sign is smaller than the existing sign. The structure upon which the signs are to be attached is setback from Southside Drive by approximately 52 feet and from Evangeline by approximately 42 feet from the edge of pavement, and

WHEREAS, the Board further finds that the applicant states, "The sign has been designed to complement existing architecture and color schemes that share its environment, considering the existing sign is larger than 60 sq. ft., visual look will be the same." Staff finds that the existing signs are larger than what is proposed. Signage as found on the same parcel, Pic-Pac Grocery Store, as the applicant's site do exceed the requirements of the current land development code making the applicants request not out of character for the general vicinity, and

WHEREAS, the Board further finds that the applicant states, "The existing signage that is there now, prior to the rebranding is larger than 60 sq. ft. No issues or problematic occurrences were ever an issue." Staff finds that the existing signage is larger in area than the replacement signs. Distances from right of ways are approximately 52 ft. from South Side Drive and 42 feet from Evangeline Ave. which may adequately justify the variance request, and

WHEREAS, the Board further finds that the applicant states, "There is plenty of store frontage at this location. The existing sign will be replacing a larger than 60 sq. ft. by decreasing the square footage of both elevations, again would only enhance the look of the neighborhood." The subject site is a corner structure on

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a larger attached multi-tenant site within a Traditional Neighborhood Form District (TNFD). The TNFD normally requires that buildings be built close to the corner/property lines with the applicant/owner's structure being setback approximately 52 ft. along Southside Drive and 42 ft. along Evangeline Ave. The existing signage exceeds the requirements of the land development code and the applicant is proposing signage that is smaller in area which is more in compliance with the intent of the LDC sign regulations within a TNFD, and

WHEREAS, the Board further finds that the applicant states, "Property is not different, existing signage there is larger than 60 sq. ft., existing sign is non-conforming and out dated that will be replaced with modernized sign." Staff finds that the proposed replacement signage does not arise from special circumstances which do not generally apply to land in the general vicinity. An existing tenant in the shopping mall, Pic-Pac Grocery Store, has an existing sign larger than what the LDC would allow, and

WHEREAS, the Board further finds that the applicant states, "A smaller sign area would be a visibility challenge that would adversely affect the center. Increasing the sq. ft. would alleviate a sight challenge and increase traffic flow." Signage as found in the same shopping mall of the subject site do in fact exceed the requirements of the current land development code making the applicants request not out of character for the general vicinity namely the Pic-Pac Grocery Store, and

WHEREAS, the Board further finds that the applicant states, "No, location and existing geography/neighbors would only benefit from a new modern sign." 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 since the applicant is requesting relief from LDC 8.8.3, table 8.3.2. The building upon which the applicant intends to attach the signage pre-dates the LDC sign regulations as of July 2018a, and

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

Variance from Land Development Code (July 2018a) 8.3.3, Table 8.3.2 for a proposed replacement attached static sign to exceed the 60 sq. ft. on the Southside Drive façade frontage on a C-1 zoned parcel within the Traditional Neighborhood form District:

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the applicant has stated in their justification "The new rebranding look is a fresh, more modernized looking sign. This alone adds value and not an eye sore for surrounding neighbors. It would have a positive effect. Staff finds that the existing signs are larger than what is proposed." The proposed replacement sign is smaller than the existing sign. The structure upon which the signs are to be attached is setback from Southside Drive by approximately 52 feet and from Evangeline by approximately 42 feet from the edge of pavement, and

WHEREAS, the Board further finds that the applicant states, "The sign has been designed to complement existing architecture and color schemes that share its environment, considering the existing sign is larger than 60 sq. ft., visual look will be the same." Staff finds that the existing signs are larger than what is proposed. Signage as found on the same parcel, Pic-Pac Grocery Store, as the applicant's site do exceed the requirements of the current land development code making the applicants request not out of character for the general vicinity, and

WHEREAS, the Board further finds that the applicant states, "The existing signage that is there now, prior to the rebranding is larger than 60 sq. ft. No issues or problematic occurrences were ever an issue." Staff finds that the existing signage is larger in area than the replacement signs. Distances from right of ways are approximately 52 ft. from South Side Drive and 42 feet from Evangeline Ave. which may adequately justify the variance request, and

WHEREAS, the Board further finds that the applicant states, "There is plenty of store frontage at this location. The existing sign will be replacing a larger than 60 sq. ft. by decreasing the square footage of both elevations, again would only enhance the look of the neighborhood." The subject site is a corner structure on a larger attached multi-tenant site within a Traditional Neighborhood Form District (TNFD). The TNFD normally requires that buildings be built close to the corner/property lines with the applicant/owner's structure being setback approximately 52 ft. along Southside Drive and 42 ft. along Evangeline Ave. The existing signage exceeds the requirements of the land development code and the applicant is proposing signage that is smaller in area which is more in compliance with the intent of the LDC sign regulations within a TNFD, and

WHEREAS, the Board further finds that the applicant states, "Property is not different, existing signage there is larger than 60 sq. ft., existing sign is non-conforming and out dated that will be replaced with modernized sign." Staff finds that the proposed replacement signage does not arise from special circumstances which do not generally apply to land in the general vicinity. An

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existing tenant in the shopping mall, Pic-Pac Grocery Store, has an existing sign larger than what the LDC would allow, and

WHEREAS, the Board further finds that the applicant states, "A smaller sign area would be a visibility challenge that would adversely affect the center. Increasing the sq. ft. would alleviate a sight challenge and increase traffic flow." Signage as found in the same shopping mall of the subject site do in fact exceed the requirements of the current land development code making the applicants request not out of character for the general vicinity namely the Pic-Pac Grocery Store, and

WHEREAS, the Board further finds that the applicant states, "No, location and existing geography/neighbors would only benefit from a new modern sign." 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 since the applicant is requesting relief from LDC 8.8.3, table 8.3.2. The building upon which the applicant intends to attach the signage pre-dates the LDC sign regulations as of July 2018a, 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 18VARIANCE1067 does hereby **APPROVE** Variance from Land Development Code (July 2018a) 8.3.3, Table 8.3.2 for a proposed replacement attached static sign to exceed the 60 sq. ft. on the Evangeline Avenue façade frontage on a C-1 zoned parcel within the Traditional Neighborhood Form District (**Requirement 60 sq. ft., Request 101 sq. ft., Variance 41 sq. ft.**), and Variance from Land Development Code (July 2018a) 8.3.3, Table 8.3.2 for a proposed replacement attached static sign to exceed the 60 sq. ft. on the Southside Drive façade frontage on a C-1 zoned parcel within the Traditional Neighborhood Form District (**Requirement 60 sq. ft., Request 101 sq. ft., Variance 41 sq. ft.**).

The vote was as follows:

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

Absent: Chair Allendorf

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CASE NUMBER 18VARIANCE1068

Request: Variances to allow fences in the street side yard setback to exceed four feet in height, and variances to allow a private swimming pool and deck to encroach into the street side yard setback

Project Name: Bay Pine Drive Fences, Deck & Pool
Location: 5900 Bay Pine Drive
Owner/Applicant: Teresa Ramey
Jurisdiction: Louisville Metro
Council District: 23 – James Peden
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:

00:16:10 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:

Teresa Ramey, 5900 Bay Pine Drive, Louisville, KY 40219
Andrew Roberts, 8110 Michael Ray, Louisville, KY 40219

Summary of testimony of those in favor:

00:25:28 Teresa Ramey spoke in favor of the request and responded to questions from the Board Members. Ms. Ramey stated she stopped working on the project when she got the Notification, so that is not how it is intended to look the way it is right now. Ms. Ramey stated the idea was to have the fence around the pool stagger down so that privacy around the pool would not look out of sort

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with the rest of the fence. Ms. Ramey stated additional landscaping was also intended. Ms. Ramey stated she did not have a rendering of the way the final fence would look, but she could get that. Ms. Ramey referred to the Powerpoint pictures to explain the way the fencing and landscaping was intended to look (see recording for detailed presentation).

00:42:03 Emily Liu, Planning & Design Services Director, stated it looks like the applicant is willing to make some changes to accommodate the regulations, and staff is willing to work with her to see what the best option would be for her, so if the Board wanted to continue this case to allow some time to work this out that would be an option (see recording for detailed presentation).

The following spoke neither for nor against the request:

Barbara Yocum, 8315 Twisted Pine Road, Louisville, KY 40219

Summary of testimony of those neither for nor against:

00:43:15 Barbara Yocum spoke neither for nor against the request. Ms. Yocum stated she would like Ms. Ramey and the neighbors to know there was no complaint against her. Ms. Yocum stated this all came about because when she saw the additional fence she had a curious question she presented which was "what is the standard height of a privacy fence in their neighborhood". Ms. Yocum stated Ms. Ramey has a very nice house and she takes very good care of it (see recording for detailed presentation).

Additional testimony of those in favor:

00:46:14 Andrew Roberts indicated he would like to speak in favor of the request. Vice Chair Fishman allowed the testimony from Mr. Roberts at this time. Mr. Roberts stated in talking to neighbors that live around them in this vicinity right here on this corner, nobody seems to have a problem with the pool. Mr. Roberts stated Ms. Ramey has other plans to do landscaping to try to help comply, but just right here where everybody sees it on a daily basis, nobody has a problem with it. Mr. Roberts 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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00:50:44 Board Members' deliberation

00:57:48 On a motion by Member Howard, seconded by Member Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1068 does hereby **CONTINUE** the case to the September 17, 2018 Board of Zoning Adjustment meeting.

The vote was as follows:

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

No: Member Turner

Absent: Chair Allendorf

00:59:01 Meeting was recessed.

00:59:17 Meeting was reconvened.

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CASE NUMBER 18CUP1003

Request:	Conditional Use Permit, variance, and waivers to allow a private institutional use in an R-4 zoning district
Project Name:	Chua Phuoc Hau Temple
Location:	8510 3rd Street Road
Owner/Applicant:	Nghiem Van Nguyen
Representative:	Mohammad Nouri
Jurisdiction:	Louisville Metro
Council District:	25 – David Yates
Case Manager:	Jon E. Crumbie, Planning & Design Coordinator

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

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

Agency Testimony:

00:59:45 Joe Haberman presented the case on behalf of the Case Manager and showed a Powerpoint presentation. Mr. Haberman responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Xuan Dinh, 8510 3rd Street Road, Louisville, KY 40272
Mohammad Nouri, 1119 Rostrevor Cr., Louisville, KY 40205
Ana Nouri, 1119 Rostrevor Cr., Louisville, KY 40205
Vinh Thai, 508 Willow Stone Way, Louisville, KY 40223

Summary of testimony of those in favor:

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01:08:16 Xuan Dinh spoke in favor of the request and showed a Powerpoint presentation. Mr. Dinh responded to questions from the Board Members (see recording for detailed presentation).

01:12:21 Mohammad Nouri spoke in favor of the request and showed a Powerpoint presentation. Mr. Nouri reviewed questions and answers from the neighborhood meeting. Mr. Nouri responded to questions from the Board Members (see recording for detailed presentation).

01:35:33 Ana Nouri spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:40:04 Vinh Thai spoke in favor of the request (see recording for detailed presentation).

The following spoke neither for nor against the request:

Councilman David Yates, 601 W. Jefferson Street, Louisville, KY 40202

Summary of testimony of those neither for nor against:

01:41:35 Councilman David Yates spoke neither for nor against the request. Councilman Yates stated he wanted to make sure the emails he forwarded had been received. Councilman Yates stated the major concern from his constituents is the landscape buffer area. Councilman Yates stated they have been good neighbors and he doesn't think there have been any issues with noise. Councilman Yates responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

01:47:16 Mr. Nouri returned to the podium to respond to questions from the Board Members regarding landscaping (see recording for detailed presentation).

01:52:08 **Board Members' deliberation**

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01:52:58 On a motion by Member Howard, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Conditional Use Permit to allow a private institution in an R-4 zoning district:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with applicable policies of the Comprehensive Plan. The applicant will be asking for a variance and waivers, and

WHEREAS, the Board further finds that the proposal is compatible with surrounding uses and the general character of the area including noise, odor, drainage, dust, and lighting, and

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed and approved the proposal. The Pleasure Ridge Park Fire Protection District did not comment on the proposal, and

WHEREAS, the Board further finds that:

Private institutional uses, except for such uses specifically regulated elsewhere in this LDC, may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N zoning districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

- A. Except in the R-R zoning district, all structures, except fencing, and all off-street parking shall be at least 30 feet from any property line adjacent to an existing residential use or residential zoning district. In the R-R zoning district all structures, except fencing, shall be at least 150 feet from any property line and all off-street parking shall be at least 30 feet from any property line. **The proposed off-street parking area will be located 8.9 feet at its closest point from the south property line and 13.9 feet from its closest point from the rear property line. The existing off-street parking will be 1 foot off the north property line.**
- B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated.

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- C. Off-street parking not located within a driveway shall be located to the side or rear of the building(s). The number of required off-street parking spaces shall be determined by the Planning Director in consultation with the Director of Public Works based on the standards for the closest comparable use and on the particular parking demand and trip generation characteristics of the proposed use. **9 off-street parking spaces will be located at the front of the new structure.**
- D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).
- E. The Board of Zoning Adjustment may set hours of operation for the institutional use in order to minimize potential negative impacts on surrounding residential properties.

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1003 does hereby **APPROVE** Conditional Use Permit to allow a private institution in an R-4 zoning district, granting relief from Item A (the Board further finds that Item C has been met), 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 a private institution without further review and approval by the Board.
3. The applicant shall submit a landscaping plan to PDS showing landscaping, including along the rear parking lot, that minimizes the view of the proposed development.

The vote was as follows:

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

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Absent: Chair Allendorf

01:59:07 On a motion by Member Howard, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, the finding that the existing structure was already exceeding the maximum front setback, and the applicant's variance justification, was adopted:

Variance to allow the proposed structure to exceed the maximum setback:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect the public health, safety or welfare because the existing structure has a front setback greater than 80 feet, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity because the natural sloped terrain and existing landscaping will be maintained, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the proposed structure will blend in with the existing topography, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the proposed structure will be located on the most logical spot of the property to maintain the natural topography, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances that do not generally apply to land in the general area because there is an existing residence on site toward the front yard, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the existing residence and other structures would need to be demolished/moved to another area of the site, and

WHEREAS, the Board further finds that the applicant is not responsible for the existing conditions or topography on site, and

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WHEREAS, the Board further finds that the variance requested will not adversely affect the public health, safety or welfare as it does not change the existing neighborhood pattern, and

WHEREAS, the Board further finds that the variance requested will not alter the essential character of the general vicinity as the natural sloped terrain is not altered. The proposed development complies with the existing built pattern in the area. The new building located in the center of the property will not be very visible from adjacent properties, and

WHEREAS, the Board further finds that the variance requested will not cause a nuisance to the public as the existing tree canopy and landscaping is not altered and with the natural sloped terrain create a buffer from adjacent properties, and

WHEREAS, the Board further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations as the general character of the area from the street and surrounding properties will remain the same; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1003 does hereby **APPROVE** Variance to allow the proposed structure to exceed the maximum setback (**Requirement 80', Request 250', Variance 170'**).

The vote was as follows:

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

Abstain: Member Young

Absent: Chair Allendorf

02:00:32 On a motion by Member Howard, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, the applicant's presentation, the applicant's waiver justifications, the fact that the waivers are for the closest point and not the full areas, and Condition of Approval #3, was adopted:

Waiver to omit the required sidewalk along 3rd Street Road and to the proposed structure:

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since there is no existing sidewalk network to tie into on 3rd Street Road, and

WHEREAS, the Board further finds that Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate, 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 since there is an existing natural drainage ditch along 3rd Street Road, 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 by causing modification of drainage patterns along 3rd Street Road that would require the Kentucky Transportation Cabinet approval, and

WHEREAS, the Board further finds that the proposed waiver conforms to the Comprehensive Plan and the intent of the Land Development Code by maintaining the existing area pattern. Third Street is lined with a natural drainage ditch and none of the properties along 3rd Street have sidewalks, and

WHEREAS, the Board further finds that compliance with the regulations is not appropriate as none of the properties on 3rd street have sidewalks preserving the rural characteristics of the area, and

WHEREAS, the Board further finds that granting the waiver will have no impact on adjacent property owners, and

WHEREAS, the Board further finds that the strict application of the provision of the regulation will deprive the applicant of time and resources and create unnecessary hardship as engineering of road drainage will be required and 3rd Street being a state road the modification of drainage patterns will require state approval. Moreover, agencies may not allow modification of drainage patterns. This process not only will be additional expense, but also a delay in schedule. The applicant would incur cost for a sidewalk that will never connect with

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adjacent properties and will modify the existing character of the neighborhood;
and

Waiver to reduce the required landscape buffer areas along the property lines:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waivers will not adversely affect adjacent property owners since only portions of the landscape buffer areas will be reduced, 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, 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 since the tree canopy will be double what is required, 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 by limiting the number of parking spaces, and

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WHEREAS, the Board further finds that the waiver requested will not adversely affect the public health, safety or welfare as it does not change the existing neighborhood pattern, and

WHEREAS, the Board further finds that the waiver requested will not violate the Comprehensive Plan. The essential character of the general neighborhood will not be altered. The natural sloped terrain and existing landscaping creates natural landscaping buffers. The proposed development complies with the existing built pattern in the area, 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 since the encroachments are limited to the VUA as necessary to provide required parking, vehicular access and all required plantings will be provided onsite, and

WHEREAS, the Board further finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect) by providing greater landscaping areas along the majority of the property lines and preserving tree canopy that exceeds the required tree canopy by more than 300%. The strict application of the regulation would create an unnecessary hardship due to the fact that the proposed parking would have to be relocated further from the building to be served and would implicate removal of existing established tree canopy; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1003 does hereby **APPROVE** Waiver to omit the required sidewalk along 3rd Street Road and to the proposed structure, and Waiver to reduce the required landscape buffer areas along the property lines (**Closest Point – South Property Line Requirement 35’, Request 8.9’, Waiver 26.1’, Closest Point – Rear Property Line Requirement 35’, Request 13.9’, Waiver 21.1’, Closest Point – North Property Line Requirement 35’, Request 1’, Waiver 34’**).

The vote was as follows:

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

No: Member Buttorff

Abstain: Member Young

Absent: Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 18CUP1009

Request:	Conditional Use Permit and variance to allow a private institutional use in an R-4 zoning district
Project Name:	Valiant Christian Academy Activity Center
Location:	5627 New Cut Road
Owner/Applicant:	On Fire Christian Center, Inc.
Representative:	Jason Hall
Jurisdiction:	Louisville Metro
Council District:	13 – Vicki Audrey Welch
Case Manager:	Jon E. Crumby, Planning & Design Coordinator

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

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

Agency Testimony:

02:04:47 Chris French presented the case on behalf of the Case Manager and showed a Powerpoint presentation. Mr. French responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jason Hall, 2309 Watterson Trail, Suite 200, Louisville, KY 40299

Summary of testimony of those in favor:

02:11:55 Jason Hall spoke in favor of the request and showed a Powerpoint presentation. Mr. Hall 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.

02:23:50 Board Members' deliberation

02:24:03 On a motion by Member Young, seconded by Member Howard, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Conditional Use Permit to allow a private institution 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. The applicant will be asking for a variance to exceed the maximum front yard setback, and

WHEREAS, the Board further finds that the proposal is compatible with the surrounding land uses and the general character of the area including height, bulk, scale, intensity, traffic, noise drainage, lighting, and appearance, and

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed the proposal. The Fairdale Fire Protection District did not comment on the proposal, and

WHEREAS, the Board further finds that:

Private institutional uses, except for such uses specifically regulated elsewhere in this LDC, may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N zoning districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

- A. Except in the R-R zoning district, all structures, except fencing, and all off-street parking shall be at least 30 feet from any property line adjacent to an existing residential use or residential zoning district. In the R-R zoning district all structures, except fencing, shall be at least 150 feet from any

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property line and all off-street parking shall be at least 30 feet from any property line.

- B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated.
- C. Off-street parking not located within a driveway shall be located to the side or rear of the building(s). The number of required off-street parking spaces shall be determined by the Planning Director in consultation with the Director of Public Works based on the standards for the closest comparable use and on the particular parking demand and trip generation characteristics of the proposed use. 9 off-street parking spaces will be located at the front of the new structure.
- D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).
- E. The Board of Zoning Adjustment may set hours of operation for the institutional use in order to minimize potential negative impacts on surrounding residential properties; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1009 does hereby **APPROVE** Conditional Use Permit to allow a private institution in an R-4 zoning district, granting relief from Items A and C, 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 a private institution without further review and approval by the Board.

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The vote was as follows:

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

Absent: Chair Allendorf

02:25:32 On a motion by Member Young, seconded by Member Howard, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony heard today, and the variance justification, was adopted:

Variance to allow the proposed structure to exceed the maximum front yard setback:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect the public health, safety or welfare because the existing structure has a front setback greater than 80 feet, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity because the proposed structure is intended to complement the style of the existing structure without reconstruction of the existing parking area, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because pedestrian access will be provided from the existing sidewalk along New Cut Road to the site, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the proposed structure will have a similar setback as the existing structure on site, and

WHEREAS, the Board further finds that the location of the existing structure can be considered a special circumstance, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the proposed structure would have to be moved toward the front of the property and parking and existing landscaping would need to be removed, and

WHEREAS, the Board further finds that the applicant is not responsible for the location of the existing structure on site and the lot configuration, and

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WHEREAS, the Board further finds that the variance will not adversely affect public health, safety or welfare due to the lot configuration and location of the existing building. The existing building has a setback greater than 80 feet, with the proposed building positioned to supplement the existing church/school facility, and

WHEREAS, the Board further finds that the variance will not alter the essential character of the general vicinity, since the existing facilities are setback greater than 80 feet. The proposed building is intended to complement the style of the existing building without requiring reconstruction of the existing parking areas, and

WHEREAS, the Board further finds that the variance will not cause a hazard or nuisance to the public, since the existing building has a setback greater than 80 feet and the proposed building will not require reconstruction of the existing parking areas. All site work will meet MSD and Metro Public Works requirements, and

WHEREAS, the Board further finds that due to the setback of the existing building and lot configuration, the variance will allow the most efficient and least disruptive plan to be implemented. Granting of the variance will not result in an unreasonable circumvention of the zoning regulation requirements, and

WHEREAS, the Board further finds that due to the location of the existing building and the configuration of the lot, construction of the proposed building at any other location than what is proposed would require reconstruction of the existing parking areas and would not allow the intended use to properly function, and

WHEREAS, the Board further finds that strict application of the regulations would result in the applicant either reconstructing the entire existing site to meet the regulations or deprive the applicant the ability to construct the needed facility, and

WHEREAS, the Board further finds that the existing circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulations for which relief is sought; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1009 does hereby **APPROVE** Variance to allow the proposed structure to

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exceed the maximum front yard setback (**Requirement 80', Request 390', Variance 310'**).

The vote was as follows:

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

Absent: Chair Allendorf

02:26:24 Meeting was recessed.

02:26:38 Meeting was reconvened.

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CASE NUMBER 17CUP1075

Request:	Conditional Use Permit to allow short term rental of a dwelling unit located in the TNZD
Project Name:	S. 2nd Street Short Term Rental
Location:	1239 S. 2nd Street
Owner/Applicant:	Daniel Kassteen
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:

02:27:34 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:

Daniel Kassteen, 1239 S. 2nd St., Unit A, Louisville, KY 40203

Summary of testimony of those in favor:

02:31:31 Daniel Kassteen spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:34:24 Joe Haberman responded to a question from Member Buttorff regarding zoning enforcement (see recording for detailed presentation).

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02:35:15 Mr. Kassteen responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:
Steven French, 1240 S. 2nd Street, Louisville, KY 40203

Summary of testimony of those in opposition:

02:36:35 Steven French spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

02:40:44 Daniel Kassteen spoke in rebuttal (see recording for detailed presentation).

02:43:38 Board Members' deliberation

02:43:57 On a motion by Member Leanhart, seconded by Member Young, 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 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 will be required, and

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

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **According to the applicant, the subject unit includes two bedrooms; LDC regulations permit up to eight 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 subject dwelling unit as one of three residential condominium units on the site.**
- 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 require 1.5 spaces per dwelling unit for multi-family residential uses, for a total of 4.5 spaces. LDC standards credit the 37 ft. property frontage on S. 2nd Street with one on-street parking space. There are three parking spaces accessible from the south alley, two indoor and one outdoor, which will not be available for short-term rental users. There is on-street parking available in the**

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immediate vicinity along both sides of S. 2nd Street and W. Ormsby Avenue.

- 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 17CUP1075 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit located in the TNZD (LDC 4.2.63), **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

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

The vote was as follows:

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

No: Member Buttorff, and Turner

Absent: Chair Allendorf

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Request:	Conditional Use Permit to allow short term rental of a dwelling unit located in the TNZD
Project Name:	W. Lee Short Term Rental
Location:	314 W. Lee Street
Owner/Applicant:	Craig Henderson
Representative:	KeySource Properties LLC
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:

02:49:05 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:

Jonathan Klunk, 1372 S. 6th Street, Louisville, KY 40208

Summary of testimony of those in favor:

02:52:03 Jonathan Klunk 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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02:56:02 **Board Members' deliberation**

02:56:09 On a motion by Member Young, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

03:00:30 **NOTE: Public Hearing was reopened to allow testimony from the applicant regarding parking.**

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

WHEREAS, the Board further finds that when appropriately managed, the proposed use is compatible with surrounding development and land uses. No exterior construction or alterations to the building or the site will be required, and

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

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **According to the applicant, the residence has four bedrooms. Up to 12 guests are permitted by**

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LDC regulation; applicant intends to limit the number of guests to eight.

- 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. **While the property does not have any off-street parking, it has 35 ft. of frontage on W. Lee, which allows for a credit for one parking space, which meets LDC requirements for the single family use. There is on-street parking available in the immediate vicinity, along both sides of W. Lee, S. 4th and S. 5th Streets.**
- 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 18CUP1075 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit located in the TNZD (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

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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. At no time shall more than eight guests be permitted on the site as a condition of a short term rental contract.

The vote was as follows:

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

Absent: Chair Allendorf

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CASE NUMBER 18CUP1067

Request:	Conditional Use Permit to allow short term rental of a dwelling unit located in the TNZD
Project Name:	S. 1st Street Short Term Rental
Location:	1021 & 1023 S. 1st Street
Owner/Applicant:	We Are MC Management LLC
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:

03:04:41 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:

Mary Conrad, 803 Gleneagle Court, Louisville, KY 40223

Summary of testimony of those in favor:

03:08:38 Mary Conrad 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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03:12:21 Board Members' deliberation

03:12:31 On a motion by Member Young, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

WHEREAS, the Board further finds that when appropriately managed, the proposed use is compatible with surrounding development and land uses. No exterior construction or alterations to the building or the site are proposed, and

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

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **According to the applicant, each unit contains two bedrooms; LDC regulations permit eight guests in each.**

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- D. The dwelling unit shall be a single-family residence, duplex or condominium. This provision shall not be waived or adjusted. **PVA lists the structure as a residential duplex.**
- 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 require one space for each dwelling unit. Based on LDC standards, the 30 ft. property frontage on S. 1st Street is credited with one on-street parking space. Three on-site parking spaces are accessible via a rear alley, and additional parking is available along the opposite side of S. 1st Street.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6.

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1067 does hereby **APPROVE** Conditional Use Permit to allow short term rental of dwelling units located in the TNZD (LDC 4.2.63), **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

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

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

Absent: Chair Allendorf

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CASE NUMBER 18CUP1078

Request:	Conditional Use Permit to allow short term rental of a dwelling unit not the primary residence of the host
Project Name:	Alfresco Place Short Term Rental
Location:	1933 Alfresco Place
Owner/Applicant:	Bay Breeze Capital LLC
Representative:	KeySource Properties LLC
Jurisdiction:	Louisville Metro
Council District:	8 – Brando Coan
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:

03:14:17 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Brian Brush, 8914 Bay Breeze Lane, Indianapolis, IN 46236
Jonathan Klunk, 1372 S. 6th Street, Louisville, KY 40208

Summary of testimony of those in favor:

03:19:00 Brian Brush spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

03:24:42 Jonathan Klunk spoke in favor of the request and responded to questions from the Board Members. Mr. Klunk stated speaking to the record of

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their company, they have never had the need to go on site after hours. Mr. Klunk stated all of the neighbors always have their contact information. Mr. Klunk stated they have short term rentals within close proximity to many schools and he has never known this to be any type of an issue. Mr. Klunk stated they currently have a guest at this location, which initially was a corporate rental, over thirty days, and then they shortened their stay to three weeks. Mr. Klunk discussed parking at this location (see recording for detailed presentation).

The following spoke in opposition of the request:

Fr. Jeff Gatlin, 1960 Bardstown Road, Louisville, KY 40205
Joe Hummel, 1931 Alfresco Place, Louisville, KY 40205
Arthur Cestaro, 1936 Ivanhoe Ct., Louisville, KY 40205
Janet Steffens, 1937 Alfresco Place, Louisville, KY 40205
Jim Leason, 1939 Alfresco Place, Louisville, KY 40205
Kathy Heineman, 1929 Alfresco Place, Louisville, KY 40205
Chris Grants, 1919 Alfresco Place, Louisville, KY 40205

03:34:00 Vice Chair Fishman swore in all parties who were speaking in opposition.

Summary of testimony of those in opposition:

03:34:22 Fr. Jeff Gatlin spoke in opposition of the request. Fr. Gatlin stated their pre-K is directly across the street from the house in question, and the entry to their kindergarten is about forty feet down further. Fr. Gatlin stated his concern is there's not going to be extensive background checks on these people, and whoever rents the place has a clear view (see recording for detailed presentation).

03:39:50 Joe Hummel spoke in opposition of the request and showed a Powerpoint presentation. Mr. Hummel stated the number one objection they have is that this property is not owned by this gentleman, it's owned by an LLC; it is a corporate entity that is setting up a business on their street where no one will be there to manage it. Mr. Hummel stated if there is a problem, they're putting the onus on the neighbors to call them. Mr. Hummel stated they don't want to manage their property; they live in their homes and it's their job to manage their property. Mr. Hummel stated the Deer Park Neighborhood Association has filed an objection because it does violate the Neighborhood Plan and the Comprehensive Plan. Mr. Hummel stated there is no off-street parking available

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here. Mr. Hummel stated Mr. Klunk did not show up for the first neighborhood meeting. Mr. Hummel stated when they did have the neighborhood meeting, Mr. Klunk stated in his report that others were neutral or almost supportive. Mr. Hummel stated he was at the neighborhood meeting and no one was neutral and no one was supportive. Mr. Hummel stated Mr. Klunk became very upset at the meeting and stated "the only reason why I'm here is because I'm required to be". Mr. Hummel said that Mr. Klunk also stated they would not rent this until after the Conditional Use Permit. Mr. Hummel stated they've been advertising this since June, and a renter pulled up August 1st with Nevada plates. Mr. Hummel stated there has not been an honest exchange of information here whatsoever. Mr. Hummel said that Mr. Klunk has stated they've never had a problem, but they utilize off-duty police officers in the event of after-hours complaints or issues. Mr. Hummel stated a business that has to have off-duty police officers available does not promote the health or general welfare on the street. Mr. Hummel stated the deed restriction restricts the use to residential which is defined as thirty days or more. Mr. Hummel responded to questions from the Board Members (see recording for detailed presentation).

04:00:23 Arthur Cestaro spoke in opposition of the request on behalf of the Deer Park Neighborhood Association. Mr. Cestaro stated the Deer Park Neighborhood Plan was adopted by Metro Council in December, 2016 and there was a great deal of public input on this plan. Mr. Cestaro stated during their forums in creating the Neighborhood Plan the most important issue among the neighbors was the residential character of the interior of the neighborhood. Mr. Cestaro stated among the things to keep out was too much rental property and over-saturation of student renters in houses. Mr. Cestaro stated he has been on this board for over twenty years and the thing they've had the most conflict with over those years has been people buying houses near Bellarmine University and renting them out to young adults who go to Bellarmine. Mr. Cestaro stated they have been able to work over the years, and it's taken a lot of work, working with Bellarmine to be able to amp this down. Mr. Cestaro stated part of the thing that has helped the most is that two of the administrators live in Deer Park, they know who they are, and they're not going to have that with short term rentals (see recording for detailed presentation).

04:06:34 Janet Steffens spoke in opposition of the request (see recording for detailed presentation).

04:07:50 Jim Leason spoke in opposition of the request (see recording for detailed presentation).

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04:09:10 Kathy Heineman spoke in opposition of the request (see recording for detailed presentation).

04:10:13 Chris Grantz spoke in opposition of the request (see recording for detailed presentation).

REBUTTAL:

04:11:34 Brian Brush spoke in rebuttal. Mr. Brush stated the first piece he wanted to address is the parking. Mr. Brush stated he was in the neighborhood on Saturday night and he had no problem parking his car, he stopped counting at twenty-five available spaces. Mr. Brush stated they've spent a significant amount of money fixing just cosmetic issues that were in the house. Mr. Brush stated it is his intent to not allow dogs. Mr. Brush stated his family intends to use this quite a bit so to say he has no stake in the community he finds very interesting. Mr. Brush stated he thinks it's somewhat unfair to characterize his family as a corporate entity just here bent on profit. Mr. Brush responded to questions from the Board Members (see recording for detailed presentation).

04:14:35 Jonathan Klunk spoke in rebuttal. Mr. Klunk stated to say they're not invested in the neighborhood is very far from the truth. Mr. Klunk stated that's one of the reasons he likes working with the Brush family, and he's sure whenever he does come into town he will be contributing as much as possible to the community. Mr. Klunk stated typically it's about twenty-four times a year that Mr. Brush will be town, so it's a very significant number. Mr. Klunk stated in fact they had explored doing corporate rentals, thirty days plus, but because of his work schedule he's not able to do that. Mr. Klunk stated short term rentals are residential activities and is still single family because it is only one contract at a time. Mr. Klunk stated nobody is able to find their address before they book or see exactly where they are; they are not advertising that they are anywhere close to a school or church, just like they don't advertise the bachelor parties. Mr. Klunk stated they would be very happy to making that a restriction as well, that they will not hold bachelor or bachelorette parties. Mr. Klunk stated that Mr. Brush will be installing cameras on the front porch so they will know the number of people and will be able to see exactly who is coming and going at any given time. Mr. Klunk responded to questions from the Board Members (see recording for detailed presentation).

04:29:04 **Board Members' deliberation**

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04:48:36 On a motion by Member Young, seconded by Member Buttorff, the following resolution, based upon the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposed use is not compatible with surrounding development and land uses and the general character of the area, specifically the proximity to other activities in the area and the noise; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1078 does hereby **DENY** Conditional Use Permit to allow short term rental of an R-5 dwelling unit not the primary residence of the host (LDC 4.2.63).

The vote was as follows:

Yes: Members Young, Buttorff, Turner, and Howard

No: Member Leanhart, and Vice Chair Fishman

Absent: Chair Allendorf

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ADJOURNMENT

04:50:11 Emily Liu, Planning & Design Services Director, stated Michael Allendorf has resigned and his last day is August 31, 2018. Ms. Liu stated Ms. Fishman will be the official chair of this Board effective September 1st. Ms. Liu stated at the next meeting, which will be Tuesday, September 4, 2018 (no meeting Monday, September 3rd due to the Labor Day holiday), there will be an election of officers at the beginning of the meeting.


Ms. Liu advised the Board Members that there are some training opportunities coming up October 5th in Cincinnati. Ms. Liu stated that same week there will be an all day KIPDA training locally.

Joe Haberman stated Councilman Coan wants us to take another look at the Short Term Rental Ordinance, so we are in a public comment period. Mr. Haberman stated that will not come before BOZA, it goes to the Planning Commission then to Metro Council, so if anyone has any comments they should get them to Mr. Haberman and he will get them to the Planning Commission to consider.

The meeting adjourned at approximately 6:16 p.m.



Chair



Secretary