

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

**August 5, 2019**

A meeting of the Louisville Metro Board of Zoning Adjustment was held on August 5, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

**Members Present:**

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

**Members Absent:**

Lindsey Jagoe  
Richard Buttorff

**Staff Members Present:**

Emily Liu, Planning & Design Director (arrived at approximately 5:00 p.m.)  
Joe Reverman, Planning & Design Assistant Director  
Joe Haberman, Planning & Design Manager  
Chris French, Planning & Design Supervisor  
Steve Hendrix, Planning & Design Coordinator  
Beth Jones, Planner II  
Zach Schwager, Planner I  
Jay Lockett, Planner I  
John Carroll, Legal Counsel (left at approximately 4:25 p.m.)  
Travis Feichter, Legal Counsel (arrived at approximately 4:25 p.m.)  
Sue Reid, Management Assistant

The following cases were heard:

**BOARD OF ZONING ADJUSTMENT MINUTES**  
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**APPROVAL OF MINUTES**

**JULY 22, 2019 BOARD OF ZONING ADJUSTMENT MEETING MINUTES**

**00:01:17** On a motion by Vice Chair 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 July 22, 2019.

**The vote was as follows:**

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

**Absent: Members Jagoe, and Buttorff**

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**August 5, 2019**

**BUSINESS SESSION**

**CASE NUMBER 19-VARIANCE-0020**

Request: Variance to allow a proposed window well to encroach into the required side yard  
Project Name: Window Well Variance  
Location: 3023 Eagle Pass  
Owner: John Nitzken  
Applicant: Jarrett Robbins  
Jurisdiction: Louisville Metro  
Council District: 10- Pat Mulvihill  
Case Manager: Steve Hendrix, 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 5<sup>th</sup> 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:**

**00:02:02** Steve Hendrix presented the case (see recording for detailed presentation).

**00:02:41** On a motion by Member Howard, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, 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 window well will provide a safe and quick exit from the basement in case of an emergency, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the addition will not be visible from the right-of-way, and

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**BUSINESS SESSION**

**CASE NUMBER 19-VARIANCE-0020**

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposal will be within the fenced yard, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations, since the window well will provide an additional escape route from the basement; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in case Number 19-VARIANCE-0020 does hereby **APPROVE** Variance from Land Development Code Table 5.3.1 to allow a structure to encroach into the required side yard setback (**Requirement 5 feet, Request 2 feet, Variance 3 feet**).

**The vote was as follows:**

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

**Absent: Members Jagoe, and Buttorff**

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**BUSINESS SESSION**

**CASE NUMBER 19-MCUP-0001**

Request: Modification of a Conditional Use Permit to allow a new 64 square foot security structure  
Project Name: West Security Office  
Location: 1100 Story Avenue  
Owner/Applicant: JBS Swift  
Jurisdiction: Louisville Metro  
Council District: 4—Barbara Sexton Smith  
Case Manager: Steve Hendrix, Planning and Design Coordinator

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

**00:03:44** Steve Hendrix presented the case (see recording for detailed presentation).

**00:04:29** On a motion by Vice Chair Fishman, seconded by Member Howard, the following resolution, based upon the Standard of Review and Staff Analysis, and the presentation, was adopted:

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

**WHEREAS**, the Board further finds that the proposal is compatible with the surrounding land uses and the general character of the area, since the structure will be within the existing parking and approximately 90 feet from North Bickel Avenue, and

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**CASE NUMBER 19-MCUP-0001**

**WHEREAS**, the Board further finds that Transportation Planning and MSD approval shall be obtained, and

**WHEREAS**, the Board further finds that:

The following uses (manufacture, processing, treatment, or storage unless otherwise specified), having accompanying hazards such as fire, explosion, noise, vibration, dust, or the emission of smoke, odor, or toxic gases may, if not in conflict with other laws or ordinances, be located in industrial zones as indicated below by Conditional Use Permit after the location and nature of such use shall have been approved by the Board of Zoning Adjustment. In reviewing an application for a CUP, the Board of Zoning Adjustment shall review the plan and statements of the applicant and the following:

- A. The Comprehensive Plan; Proposal meets applicable requirements.
- B. Environmental and health related concerns raised by the operation and the applicant's proposal to mitigate any adverse effects to the public's health, safety and general welfare;  
Not applicable to this proposal.
- C. The applicant's site design, buffering, and security measures and their adequacy to mitigate any adverse effects to the public's health, safety and general welfare;  
Transportation and MSD approval shall be obtained.
- D. Any other evidence submitted by the applicant and any other party addressing the issues.

A Conditional Use Permit under this section shall be issued only if the evidence shows the applicant's operation and associated nuisances will be properly managed and the public's health, safety and general welfare will be protected. The Board of Zoning Adjustment may impose additional conditions to protect surrounding properties. All Conditional Use Permits under this section shall be issued subject to the applicant also receiving all necessary permits from local, state and federal regulatory agencies; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 19-MCUP-0001 does hereby **APPROVE** Modification of a Conditional Use Permit to allow a new 64 square foot security structure in the west employee parking lot adjacent to North Bickel Avenue, **SUBJECT** to the following Conditions of Approval:

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**CASE NUMBER 19-MCUP-0001**

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 modified Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the modification is not so exercised, the request becomes void.

**The vote was as follows:**

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

**Absent: Members Jagoe, and Buttorff**

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**BUSINESS SESSION**

**CASE NUMBER 19CUP1124**

Request:	Modification of Conditional Use Permit for Cemeteries and Mausoleums
Project Name:	Calvary Cemetery
Location:	1600 and 1740 Newburg Rd
Owner:	Roman Catholic Bishop of Louisville
Applicant:	Catholic Cemeteries
Representative:	Bardenwerper Talbott & Roberts PLLC
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
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 5<sup>th</sup> 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:**

**00:05:37** Beth Jones presented the case and showed the site plan. Ms. Jones responded to questions from the Board Members (see recording for detailed presentation).

**00:08:56** On a motion by Vice Chair Fishman, seconded by Member Howard, the following resolution, based upon the Standard of Review and Staff Analysis, 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 the use of the property is compatible with the surrounding area. The new proposal reduces the adverse impact of the project on public sidewalks, and



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**WHEREAS**, the Board further finds that the site is served by public facilities and the proposal is not expected to create significant additional service requirements, and

**WHEREAS**, the Board further finds that:

Cemeteries, Mausoleums, and Crematories may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the following requirements:

- A. Fences - A fence, with a minimum height of 6 feet, shall be erected around the premises with openings only for ingress and egress to a public way.
- B. Required Yards - No required yard shall be occupied by graves. There shall be a 30 foot landscaped or open space buffer between the property line and any building, structure, or gravesite. No gravesites shall be placed closer than 30 feet from any property line and at least 30 feet from the right-of-way line for existing and planned public streets. This shall not apply to roads designed for internal circulation within the cemetery, mausoleum or crematory property.
- C. All roads used solely for internal circulation shall have a minimum pavement width of 16 feet and a minimum shoulder width of 6 feet on each side of the pavement. Roads providing access to chapels or offices shall have minimum pavement width of 20 feet; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1124 does hereby **APPROVE** Modification of Conditional Use Permit for Cemeteries and Mausoleums (LDC 4.2.13), **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

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

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**CASE NUMBER 19CUP1124**

3. Reconstruction and repair of the existing Newburg Road sidewalk shall be completed as needed to meet current MPW standards and shall be inspected prior to final bond release.
4. A crossover access and parking agreement shall be executed prior to construction plan review.

**The vote was as follows:**

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

**Absent: Members Jagoe, and Buttorff**

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**BUSINESS SESSION**

**CASE NUMBER 19CUP1009**

Request: **RECONSIDERATION REQUEST**  
Conditional Use Permit for a short term rental unit that is not the primary residence of the host

Project Name: Short Term Rental

Location: 1006 Mulberry Street

Owner/Applicant: Benjamin Levine

Jurisdiction: Louisville Metro

Council District: 10 – Pat Mulvihill

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.**

**Agency testimony:**

**00:10:23** Steve Hendrix presented the reconsideration request (see recording for detailed presentation).

**The following spoke in favor of the request:**

Jon Solomon, 101 S. Fifth Street, Suite 3600, Louisville, KY 40202

**Summary of testimony of those in favor:**

**00:12:38** Jon Solomon explained the reasons for the Reconsideration 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.

**00:18:44 Board Members' deliberation**

**00:20:53** The Louisville Metro Board of Zoning Adjustment, by general consensus, in Case Number 19CUP1009 agreed to deny the Reconsideration Request. Therefore, no vote or action was taken.

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**PUBLIC HEARING**

**CASE NUMBER 19DEVPLAN1006**

Request:	Category 3 Development Plan with a Variance
Project Name:	Flavorman
Location:	809 S 8th St
Owner/Applicant:	809 SoBro, LLC.
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Jay Lockett, AICP, Planner I

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

**00:21:18** 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:**

Karl Lentz, 4010 Dupont Circle, Suite 478, Louisville, KY 40207

**Summary of testimony of those in favor:**

**00:24:16** Karl Lentz spoke in favor of the request and showed a Powerpoint presentation. Mr. Lentz 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 19DEVPLAN1006**

**00:28:57 Board Members' deliberation**

**00:29:40** On a motion by Member Howard, seconded by Vice Chair Fishman, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony heard today, and the applicant's justification, was adopted:

**Variance from Land Development Code Table 5.2.2 to allow a 29,235 SF addition to encroach into the 10 foot side yard setback by 10 feet as shown on the development plan:**

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect public health, safety or welfare, as all building and fire safety requirements will be followed in the construction of the facility, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity, as structures with minimal or no setbacks are common in the area. The building design meets the standards established in the Land Development Code for construction in the Traditional Neighborhood form district, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public, as the building will be constructed utilizing all building and fire safety requirements. The owner of the property directly affected by the variance request has indicated support for the proposal, and

**WHEREAS**, the Board further finds that the requested variance will not cause an unreasonable circumvention of the zoning regulations, as common-wall construction and minimal setbacks are common in the area, and

**WHEREAS**, the Board further finds that the location of the requested variance for the proposed building addition encroachment into the 10' side yard setback will have no effect on public health, safety, or welfare, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the property is located in an existing commercial & industrial area with existing conditions similar to the requested variance, and

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**CASE NUMBER 19DEVPLAN1006**

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed building addition encroachment into the 10' side yard setback will not be accessible by the public, and

**WHEREAS**, the Board further finds that the requested variance will not allow unreasonable circumvention of the requirements of the zoning regulations since the proposed building encroachment into the 10' side yard setback will be compatible with the adjacent property affected; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 19DEVPLAN1006 does hereby **APPROVE** Variance from Land Development Code Table 5.2.2 to allow a 29,235 SF addition to encroach into the 10 foot side yard setback by 10 feet as shown on the development plan.

**The vote was as follows:**

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

**Absent: Members Jagoe, and Buttorff**

**00:30:48** On a motion by Member Howard, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

**Category 3 Development Plan:**

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the proposal generally meets the guidelines of the Comprehensive Plan and requirements of the Land Development Code; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 19DEVPLAN1006 does hereby **APPROVE** Category 3 Development Plan, **SUBJECT** to the following Condition of Approval:

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**CASE NUMBER 19DEVPLAN1006**

Condition of Approval:

1. Before any permit, including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition, a minor plat or legal instrument shall be recorded consolidating the lots into a single lot.

**The vote was as follows:**

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

**Absent: Members Jagoe, and Buttorff**

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**PUBLIC HEARING**

**CASE NUMBER 19VARIANCE1058**

Request: Variance to allow a proposed structure to encroach into the required side yard setback  
Project Name: Cross Meadows Circle Variance  
Location: 9333 Cross Meadows Circle  
Owner: Glenmary Village Development, LLC  
Applicant: Ann Richard – Land Design & Development, Inc.  
Jurisdiction: Louisville Metro  
Council District: 20 – Stuart Benson  
Case Manager: Zach Schwager, Planner I

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

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

**Agency Testimony:**

**00:32:11** Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see recording for detailed presentation).

**The following spoke in favor of the request:**

Kevin Young, 503 Washburn Ave., Louisville, KY 40222

**Summary of testimony of those in favor:**

**00:34:53** Kevin Young 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 19VARIANCE1058**

**00:36:25 Board Members' deliberation**

**00:36:54** On a motion by Member Leanhart, seconded by Vice Chair Fishman, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the structure will need to be constructed to comply with all building codes, including fire codes, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposed structure will be set back in a similar manner to the existing structures in the area, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed structure only slightly encroaches into the required side yard setback, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as it is only a slight encroachment into the side yard setback; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 19VARIANCE1058 does hereby **APPROVE** Variance from Land Development Code Table 5.3.1 to allow a structure to encroach into the required (northern and southern) side yard setback (**Requirement 5 ft., Request 4.24 ft., Variance 0.76 ft.**)

**The vote was as follows:**

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

**Absent: Members Jagoe, and Buttorff**

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**PUBLIC HEARING**

**CASE NUMBER 19-VARIANCE-0008**

Request: Variances to allow a proposed sign to exceed the maximum allowable height and area and a waiver to allow a freestanding sign to not be a monument or columnar style sign on a lot adjacent to a designated parkway

Project Name: River Road Variances and Waiver  
Location: 3015 River Road  
Owner: Pastime Development, Co.  
Applicant: Tanya Scott – Signarama Downtown  
Jurisdiction: Louisville Metro  
Council District: 7 – Paula McCraney  
Case Manager: Zach Schwager, Planner I

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

**00:38:27** Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager stated he had received one phone call in opposition on August 1<sup>st</sup> after the staff report was published. Mr. Schwager responded to questions from the Board Members (see recording for detailed presentation).

**00:45:02** Joe Haberman responded to questions from the Board Members regarding nonconforming rights (see recording for detailed presentation).

**The following spoke in favor of the request:**

Tanya Scott, 909 E. Market Street, #404, Louisville, KY 40206

**Summary of testimony of those in favor:**

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**CASE NUMBER 19-VARIANCE-0008**

**00:47:30** Tanya Scott spoke in favor of the request and provided a rendering to the Board Members. Ms. Scott responded to questions from the Board Members (see recording for detailed presentation).

**The following spoke neither for nor against the request:**  
Meme Sweets Runyon, 1201 Story Ave., Louisville, KY 40204

**Summary of testimony of those neither for nor against:**

**00:50:29** Meme Sweets Runyon spoke neither for nor against the request. Ms. Runyon referred to Mr. Schwager's Powerpoint presentation to indicate River Fields' properties. Ms. Runyon stated River Road is River Fields' only scenic byway, and they think it's very, very important to protect signage on the scenic byway. Ms. Runyon stated they have no concern about there being a sign there, the question is what kind of sign and how big is it. Ms. Runyon stated their suggestion would be that this committee considers asking the applicant (the merchant) to look into making a comprehensive sign of his businesses so the sign is not four different pieces of information plopped up there. Ms. Runyon spoke in disagreement with the variance justification (see recording for detailed presentation).

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

**REBUTTAL:**

**01:07:19** Tanya Scott spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

**01:10:47** **Board Members' deliberation**

**01:19:17** On a motion by Member Turner, seconded by Vice Chair Fishman, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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**PUBLIC HEARING**

**CASE NUMBER 19-VARIANCE-0008**

**Variance from Land Development Code Table 8.3.3 to allow a sign to exceed the allowable height on a designated parkway:**

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the requested variance to exceed the maximum height will not adversely affect the public health, safety, or welfare as the existing sign is nonconforming in that it currently exceeds the height allowance and has caused no known adverse effects. The proposed sign will not add any additional height to the structure, and

**WHEREAS**, the Board further finds that the requested variance to exceed the maximum height will not alter the essential character of the general vicinity as the sign is existing and there are other signs in the vicinity of similar height, and

**WHEREAS**, the Board further finds that the requested variance to exceed the maximum height will not cause a hazard or nuisance to the public as the sign will not obstruct views for drivers or pedestrians, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the sign is similar in height to other signs in the general vicinity and the height of the structure will not be increased; and

**Variance from Land Development Code Table 8.3.3 to allow a sign to exceed the allowable area on a designated parkway:**

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the requested variance to exceed the maximum area will not adversely affect the public health, safety or welfare as the existing sign is nonconforming in that it currently exceeds the area allowance and has caused no known adverse impacts, and

**WHEREAS**, the Board further finds that the requested variance to exceed the maximum area will not alter the essential character of the general vicinity as the sign is existing and there are other signs in the vicinity of similar area, and

**WHEREAS**, the Board further finds that the requested variance to exceed the maximum area will not cause a hazard or nuisance to the public as the sign will not obstruct views for drivers or pedestrians, and

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**CASE NUMBER 19-VARIANCE-0008**

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the structures that the businesses are located in are approximately 950 ft. from the road. This prevents the applicant from using attached signage as an alternative to the existing freestanding sign; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 19-VARIANCE-0008 does hereby **APPROVE** Variance from Land Development Code Table 8.3.3 to allow a sign to exceed the allowable height on a designated parkway (**Requirement 6 ft., Request 23 ft. 9 in., Variance 17 ft. 9 in.**), and Variance from Land Development Code Table 8.3.3 to allow a sign to exceed the allowable area on a designated parkway (**Requirement 60 sq. ft., Request 205.2 sq. ft., Variance 145.2 sq. ft.**).

**The vote was as follows:**

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

**No: Member Leanhart, and Chair Young**

**Absent: Members Jagoe, and Buttorff**

**01:22:17** On a motion by Member Turner, seconded by Member Howard, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

**Waiver from Land Development Code Section 8.3.3.B.9 to allow a freestanding sign to not be a monument or columnar style sign on a lot adjacent to a designated parkway:**

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as the sign faces woods on both sides on the same side of the street and an institutional use across River Road, and

**WHEREAS**, the Board further finds that The waiver will not violate specific guidelines of Plan 2040 as Plan 2040 Goal 1 Policy 14 describes signs as compatible with the form district pattern and contributing to the visual quality of their surroundings. Promote signs of a size and height adequate for effective

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**CASE NUMBER 19-VARIANCE-0008**

communication and conducive to motor vehicle safety. Encourage signs that are integrated with or attached to structures wherever feasible; limit freestanding signs to monument style signs unless such design would unreasonably compromise sign effectiveness. Give careful attention to signs in historic districts, parkways, scenic corridors, design review districts and other areas of special concern.

These guidelines are not violated because the sign is legally nonconforming in regards to design, 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 they are using an existing freestanding sign, 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 the land or create an unnecessary hardship on the applicant as the sign is existing and the applicant would have to change the style of the sign; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 19-VARIANCE-0008 (19-WAIVER-0007) does hereby **APPROVE** Waiver from Land Development Code Section 8.3.3.B.9 to allow a freestanding sign to not be a monument or columnar style sign on a lot adjacent to a designated parkway, **SUBJECT** to the following Condition of Approval:

Condition of Approval:

1. Landscaping shall be added at the base of the sign.

**The vote was as follows:**

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

**No: Member Leanhart, and Chair Young**

**Absent: Members Jagoe, and Buttorff**

**BOARD OF ZONING ADJUSTMENT MINUTES**  
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**PUBLIC HEARING**

**CASE NUMBER 19-VARIANCE-0017**

Request:	Variance to allow a proposed sign to exceed the maximum allowable area in the Traditional Marketplace Corridor
Project Name:	Brent Street Variance
Location:	724 Brent Street
Owner:	Kentucky Ceramics, LLC
Applicant:	Shawn Hadley – Brown-Forman and KCA
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Zach Schwager, Planner I

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

**01:25:28** Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see staff report and recording for detailed presentation).

**The following spoke in favor of the request:**

Shawn Hadley, 850 Dixie Highway, Louisville, KY 40210

**Summary of testimony of those in favor:**

**01:28:28** Shawn Hadley spoke in favor of the request and provided a rendering to the Board Members. Mr. Hadley responded to questions from the Board Members (see recording for detailed presentation).

**BOARD OF ZONING ADJUSTMENT MINUTES**  
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**PUBLIC HEARING**

**CASE NUMBER 19-VARIANCE-0017**

**The following spoke in opposition of the request:**

No one spoke.

**01:31:18 Board Members' deliberation**

**01:31:27** On a motion by Member Howard, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, and the applicant's justification, was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the requested variance to exceed the maximum area will not adversely affect the public health, safety, or welfare as the sign is attached to the building and will not have any changing image components or internal illumination, and

**WHEREAS**, the Board further finds that the requested variance to exceed the maximum area will not alter the essential character of the general vicinity as there are a number of different land uses in the area and the sign will not face any residential properties, and

**WHEREAS**, the Board further finds that the requested variance to exceed the maximum area will not cause a hazard or nuisance to the public as the sign will not obstruct views for drivers or pedestrians, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed sign is in a low traffic area and faces industrial land use, a parking lot, and a railroad; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 19-VARIANCE-0017 does hereby **APPROVE** Variance from Land Development Code Table 8.3.2 to allow a sign to exceed the allowable area in the Traditional Marketplace Corridor Form District (**Requirement 300 sq. ft., Request 600 sq. ft., Variance 300 sq. ft.**).



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**PUBLIC HEARING**

**CASE NUMBER 19-VARIANCE-0017**

**The vote was as follows:**

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

**Absent: Members Jagoe, and Buttorff**

**BOARD OF ZONING ADJUSTMENT MINUTES**  
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**PUBLIC HEARING**

**CASE NUMBER 19CUP1045**

Request:	Conditional Use Permit for Commercial Greenhouses/Plant Nurseries/Landscape Material Supply
Project Name:	Full Care of Louisville
Location:	2501 Blankenbaker Road
Owner/Applicant:	Twins Unlimited
Representative:	Dinsmore & Shohl LLP
Jurisdiction:	Louisville Metro
Council District:	20 – Stuart Benson
Case Manager:	Beth Jones, AICP, Planner II

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

**01:34:08** 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:**

Chris Crumpton, 3703 Taylorsville Rd., Suite 205, Louisville, KY 40220

**Summary of testimony of those in favor:**

**01:40:51** Chris Crumpton spoke in favor of the request and responded to questions from the Board Members(see recording for detailed presentation).

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**PUBLIC HEARING**

**CASE NUMBER 19CUP1045**

**The following spoke in opposition of the request:**

No one spoke.

**01:43:28 Board Members' deliberation**

**01:43:36** On a motion by Member Leanhart, seconded by Vice Chair Fishman, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, 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 compatible with surrounding uses and with the general character of the area, and

**WHEREAS**, the Board further finds that the proposed development does not appear to substantially increase demands on public infrastructure and facilities, and

**WHEREAS**, the Board further finds that:

Commercial Greenhouses/Plant Nurseries/Landscape Material Supply may be allowed in the R-R, R-1, R-2, R-3, R-4, R-5, R-5A, R-5B, R-6, R-7, R-8A, OR-1, OR-2, OR-3 and OTF Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. Buffers and Screening - Greenhouses and other structures as well as outdoor sales, display and storage of materials shall be buffered and screened in accordance with standards for commercial uses in Chapter 10, Landscaping, Screening, and Open Space. Parking lots shall be screened from adjacent properties in accordance with the provisions of the Development Code. **The existing development meets this requirement.**
  
- B. Setbacks – All buildings, structures and outdoor sales/display and storage of materials shall be at least 50 feet from the front and/or street-side property line and a minimum of 20 feet from any other property line. **The existing development meets this requirement.**

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- C. Freestanding Signs - Only one freestanding sign shall be permitted. The freestanding sign shall not exceed 32 square feet in area per side and shall not exceed a height of 6 feet. The maximum height shall include any berm, landscape mound, or other manmade alteration above the surrounding ground level. **No signage exists or is planned for the site.**
- D. Attached Signs – Only one attached sign shall be permitted. The one attached sign permitted shall be attached to the primary building only and no attached sign shall be permitted on any other buildings on the site. The attached sign shall not exceed 20 square feet in area, shall be attached flat to the face of the building, and shall not project more than 18 inches from the face of the building. STAFF: The site is located in a Neighborhood form district. The proposed accessory apartment provides two garage parking spaces and one outdoor parking space. **No signage exists or is planned for the site;** now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1045 does hereby **APPROVE** Conditional Use Permit for Commercial Greenhouses/Plant Nurseries/Landscape Material Supply (LDC 4.2.16), **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 shall not be used for a Commercial Greenhouse/Plant Nursery/Landscape Material Supply without further review and approval by BOZA.
3. The subject parcel shall be consolidated with the adjoining parcel at 2601 Blankenbaker Road or a crossover access and parking agreement between the properties shall be executed no later than September 4, 2019.

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**CASE NUMBER 19CUP1045**

**The vote was as follows:**

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

**Absent: Members Jagoe, and Buttorff**

**01:44:29 Meeting was recessed.**

**01:44:47 Meeting was reconvened.**

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**PUBLIC HEARING**

**CASE NUMBER 19CUP1123**

Request: Conditional Use Permit for a Mini-Warehouse Facility  
with Requests for Relief  
Project Name: Blankenbaker Station I – Lot 7  
Location: 12550 Sycamore Station Pl  
Owner/Applicant: Gregory W. Oakley, Pinnacle Partners LLC/TSF  
Properties  
Representative: Kathy M. Linares, Mindel Scott  
Jurisdiction: Louisville Metro  
Council District: 20 – Stuart Benson  
Case Manager: Lacey Gabbard, AICP, Planner I

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

**01:45:02** 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 recording for detailed presentation).

**The following spoke in favor of the request:**

Kent Gootee, 5151 Jefferson Blvd., Louisville, KY 40219

**Summary of testimony of those in favor:**

**01:49:43** Kent Gootee spoke in favor of the request and showed a Powerpoint presentation. Mr. Gootee reported on the neighborhood meeting. Mr. Gootee responded to questions from the Board Members (see recording for detailed presentation).

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**CASE NUMBER 19CUP1123**

**The following spoke in opposition of the request:**

No one spoke.

**01:55:38 Board Members' deliberation**

**01:55:44** On a motion by Member Howard, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, and the elevations, was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with Comprehensive Plan policies regarding setbacks and landscaping and preserves significant open space, and

**WHEREAS**, the Board further finds that the proposed Conditional Use Permit is compatible with development in the vicinity. Nearby developments in Blankenbaker Station I include the Federal Bureau of Investigation and Xscape Theatres, both of which are large commercial/office buildings, and

**WHEREAS**, the Board further finds that existing public facilities appear adequate to serve the proposal, and

**WHEREAS**, the Board further finds that:

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

- A. The property shall be landscaped so as to blend in with the surrounding area and shall be screened and buffered from adjacent uses of a non-industrial nature. **The proposed development plan meets Land Development Code landscaping requirements. Additionally, a landscape plan must be submitted to Planning and Design Services before construction permits are issued.**
- B. No building, structure or pavement shall be located closer than 30 feet to side property lines or property lines abutting residential areas. This area is reserved

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as a landscape buffer area. **The subject site does not abut any residentially zoned or used properties.**

- C. No outside storage shall be allowed on the property.
- D. No storage of toxic or hazardous materials shall be allowed on the property.
- E. There shall be no retail or wholesale sales or distributing activities on site.
- F. Loading doors and vehicle maneuvering areas shall be located away from the exterior of the property.
- G. No structure on the site shall be taller than one story and shall not exceed 15 feet in height (except for one freestanding sign as allowed in H below). **The applicant is requesting relief from this section to allow the building to be three (3) stories and 45 feet in height. Other structures in the vicinity of the proposed mini-warehouse (specifically, the Federal Bureau of Investigation and Xscape Theatres buildings) both appear to exceed these restrictions. Staff supports the request for relief from this section.**
- H. Signs - Only one freestanding sign shall be allowed and shall conform to limits established for the form district in which the sign is located. **The applicant's proposal includes the addition of a new mini-warehouse sign near the Sycamore Station Place entrance to the subject site. There is an existing "business park identification sign" (specific to Blankenbaker Station) located on the north property line, near Interstate 64. Since there is an existing sign on the subject site near Interstate 64, the applicant is requesting relief from this section in order to install a new sign on the subject site for the mini-warehouse. Staff supports the request for relief from this section since the existing sign is specific to the business park, not the subject site;** now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1123 does hereby **APPROVE** Conditional Use Permit for Mini-Warehouses (LDC 4.2.35), with **RELIEF** from Land Development Code Section 4.2.35.G to allow the building to be more than 1 story/15 feet in height, and **RELIEF** from Land Development Code Section 4.2.3.5.H to allow more than one freestanding sign on the site, 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 by and approval of 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 Mini-Warehouse without further review by and approval of the Board.

**The vote was as follows:**

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

**Absent: Members Jagoe, and Buttorff**

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**PUBLIC HEARING**

**CASE NUMBER 19CUP1055**

Request: Conditional Use Permit for short term rental of a dwelling unit not the primary residence of the host  
Project Name: S. 3rd Short Term Rental  
Location: 2911 S. 3rd Street  
Owner/Applicant/Host: S & W Property Group LLC  
Jurisdiction: Louisville Metro  
Council District: 15 – Kevin Triplett  
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 5<sup>th</sup> 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:**

**01:58:27** 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:**

Sean Williams, 3608 Kelly Way, Louisville, KY 40220

**Summary of testimony of those in favor:**

**02:02:00** Sean Williams 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:**

Chris Fitzgerald, 2909 S. 3<sup>rd</sup> Street, Louisville, KY 40208

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**Summary of testimony of those in opposition:**

**02:07:22** Chris Fitzgerald spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

**REBUTTAL:**

**02:13:56** Sean Williams spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

**02:16:13 Board Members' deliberation**

**02:18:30** On a motion by Vice Chair Fishman, seconded by Member Howard, the following resolution, based upon the Standard of Review and Staff Analysis, the presentation, and the testimony heard today, was adopted:

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

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

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

**WHEREAS**, the Board further finds that:

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

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- 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 two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **The residence has four bedrooms; up to ten guests are permitted.**
- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, there are no properties with an approved conditional use permit for short term rental of a dwelling unit not the primary residence of the host within 600 ft. of the subject property.**
- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The dwelling unit is a single-family residence.**
- F. Food and alcoholic beverages shall not be served by the host to any guest.

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- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **The property's 30 ft. frontage can accommodate one vehicle; a garage and a parking pad off a rear alley can accommodate three vehicles.**
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief.
- K. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental pursuant to the Louisville Metro Code of Ordinances. If the short term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void.
- L. An active registration for the short term rental, as required by the Louisville Metro Code of Ordinances, shall be maintained. No short term rentals may take place unless the registration is active and in the name of the current host and property owner. If the registration is not renewed and lapses for six months, or in the event of a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by this Land Development Code

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**CASE NUMBER 19CUP1055**

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1055 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit not the primary residence of the host (LDC 4.2.63).

**The vote was as follows:**

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

**Absent: Members Jagoe, and Buttorff**

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**PUBLIC HEARING**

**CASE NUMBER 19CUP1046**

Request: Conditional Use Permit for short term rental of dwelling units not the primary residence of the host  
Project Name: Barret Avenue Short Term Rental  
Location: 1368 Barret Avenue  
Owner/Applicant/Host: DerbyBirdie LLP  
Jurisdiction: Louisville Metro  
Council District: 8 – Brandon 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 5<sup>th</sup> 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:**

**02:19:58** 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:**

Myron Hardesty, 1368 Barret Ave., Louisville, KY 40204  
Stefani Hardesty, 1368 Barret Ave., Louisville, KY 40204

**Summary of testimony of those in favor:**

**02:26:51** Myron and Stefani Hardesty 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:**

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No one spoke.

**02:39:41 Board Members' deliberation**

**02:40:58** On a motion by Member Leanhart, seconded by Vice Chair Fishman, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

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

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

**WHEREAS**, the Board further finds that:

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 two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **The first floor unit**



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**includes three bedrooms; up to eight guests are permitted. The second floor unit has one bedroom; up to four guests are permitted.**

- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, there are no properties with an approved conditional use permit for short term rental of a dwelling unit not the primary residence of the host within 600 ft. of the subject property.**
- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The dwelling unit is a duplex residence.**
- F. Food and alcoholic beverages shall not be served by the host to any guest.
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **The site includes a detached two-vehicle garage; this will not be available to guests. A 60 ft. driveway can accommodate approximately three vehicles.**

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

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1046 does hereby **APPROVE** Conditional Use Permit for short term rental of dwelling units not the primary residence of the host (LDC 4.2.63), **SUBJECT** to the following Condition of Approval:

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Condition of Approval:

1. Prior to the commencement of any short term rental on the subject property, the driveway shall be inspected by Planning & Design Services staff to confirm that it is code compliant with a hard and durable surface.

**The vote was as follows:**

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

**Absent: Members Jagoe, and Buttorff**

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**PUBLIC HEARING**

**CASE NUMBER 18CUP1177**

Request:	Conditional Use Permit for a short term rental of a single family dwelling that is not the primary residence of the host
Project Name:	Short Term Rental
Location:	1004 Mayer Avenue
Owner/Applicant:	James Wallace
Jurisdiction:	Louisville Metro
Council District:	10- Pat Mulvihill
Case Manager:	Steve Hendrix, Planning and Design Coordinator

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

**02:43:05** Steve Hendrix presented the case and showed a Powerpoint presentation. Mr. Hendrix stated he had received a phone call this morning from a neighbor who was concerned about parking. 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:**

James Wallace, 775 Goullon Court, Louisville, KY 40204

**Summary of testimony of those in favor:**

**02:47:26** James Wallace 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.

**02:53:01 Board Members' deliberation**

**02:53:09** On a motion by Member Leanhart, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

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

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

**WHEREAS**, the Board further finds that:

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 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 two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be

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two times the number of bedrooms plus six individuals. **The applicant states that the house has one bedroom which would allow for a total of four guests.**

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

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

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1177 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a single family dwelling that is not the primary residence of the host in an R-5 Zoning District and Traditional Neighborhood Form District.

**The vote was as follows:**

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

**Absent: Members Jagoe, and Buttorff**

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**PUBLIC HEARING**

**CASE NUMBER 19CUP1076**

Request:	Conditional Use Permit for short term rental of a dwelling unit located in the TNZD
Project Name:	Floral Terrace Short Term Rental
Location:	604 Floral Terrace
Owner:	Creative Resolutions, LLC
Applicant/Host:	David Orange
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 5<sup>th</sup> 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:**

**02:54:59** 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:**

John Talbott, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223

**Summary of testimony of those in favor:**

**03:02:13** John Talbott 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:**

Michael Meador, 626 Floral Terrace, Louisville, KY 40208



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William P. Bradford, II, 613 Floral Terrace, Louisville, KY 40208  
Penny Johnson, 627 Floral Terrace, Louisville, KY 40208  
Justin Elliott, 1317 S. 6<sup>th</sup> Street, Louisville, KY 40208

**Summary of testimony of those in opposition:**

**03:13:54** Michael Meador spoke in opposition of the request. Mr. Meador presented signatures in opposition to the Board Members (see recording for detailed presentation).

**03:18:34** William P. Bradford, II spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

**03:22:56** Penny Johnson spoke in opposition of the request (see recording for detailed presentation).

**03:29:00** Justin Elliott spoke in opposition of the request (see recording for detailed presentation).

**REBUTTAL:**

**03:30:57** John Talbott spoke in rebuttal (see recording for detailed presentation).

**03:31:49** David Orange (1427 Texas Ave., Louisville, KY 40217) spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

**03:40:17 Board Members' deliberation**

**03:47:15** On a motion by Member Howard, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

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

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

**WHEREAS**, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **According to the applicant, the residence has five bedrooms; up to 12 guests are permitted.**
- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, there are no properties with an approved conditional use**

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**permit for short term rental of a dwelling unit not the primary residence of the host within 600 ft. of the subject property (see Attachment 3).**

- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The dwelling unit is a single-family residence.**
- F. Food and alcoholic beverages shall not be served by the host to any guest.
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **: LDC standards credit the site with two on-street parking space along the S. 6th Street property frontage.**
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil

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complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief.

- K. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental pursuant to the Louisville Metro Code of Ordinances. If the short term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void.
- L. An active registration for the short term rental, as required by the Louisville Metro Code of Ordinances, shall be maintained. No short term rentals may take place unless the registration is active and in the name of the current host and property owner. If the registration is not renewed and lapses for six months, or in the event of a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by this Land Development Code; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1076 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit within the TNZD (LDC 4.2.63).

**The vote was as follows:**

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

**Absent: Members Jagoe, and Buttorff**

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**PUBLIC HEARING**

**CASE NUMBER 18CUP1181**

Request:	Conditional Use Permit for short term rental of a dwelling unit not the primary residence of the host
Project Name:	122 Bellaire Short Term Rental
Location:	122 N. Bellaire Avenue
Owner/Applicant/Host:	Thomas H. Fawbush Jr.
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Beth Jones, AICP, Planner II

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

**03:49:03** Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones provided background information regarding this case and the following case, which are directly adjacent to one another. Ms. Jones responded to questions from the Board Members (see staff report and recording for detailed presentation).

**03:55:09** Joe Haberman reviewed nonconforming rights procedures. The Board Members and staff discussed nonconforming rights, conditions of approval, and relief of the thirty day registration requirement (see recording for detailed presentation).

**The following spoke in favor of the request:**

Tom Fawbush, 6803 Lake Buckhorn Court, Louisville, KY 40291

**Summary of testimony of those in favor:**

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**CASE NUMBER 18CUP1181**

**04:01:31** Tom Fawbush 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.

**04:09:47 Board Members' deliberation**

**04:18:03** On a motion by Member Howard, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, the presentation, and the testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the request does not meet all of the listed requirements and the Conditional Use Permit cannot be approved; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1181 does hereby **DENY** Conditional Use Permit to allow short term rental of dwelling units not the primary residence of the host (LDC 4.2.63).

**The vote was as follows:**

**Yes: Members Howard, Leanhart, and Chair Young**

**No: Member Turner, and Vice Chair Fishman**

**Absent: Members Jagoe, and Buttorff**

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**PUBLIC HEARING**

**CASE NUMBER 18CUP1180**

Request:	Conditional Use Permit for short term rental of a dwelling unit not the primary residence of the host
Project Name:	120 Bellaire Short Term Rental
Location:	120 N. Bellaire Avenue
Owner/Applicant/Host:	Thomas H. Fawbush Jr.
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Beth Jones, AICP, Planner II

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

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

**Agency testimony:**

**04:20:13** 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:**

Tom Fawbush, 6803 Lake Buckhorn Court, Louisville, KY 40291

**Summary of testimony of those in favor:**

**04:23:28** Tom Fawbush 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 18CUP1180**

**04:27:30 Board Members' deliberation**

**04:29:11** On a motion by Vice Chair Fishman, seconded by Member Howard, the following resolution, based upon the Standard of Review and Staff Analysis, was adopted:

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

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

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

**WHEREAS**, the Board further finds that:

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 two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **The first floor unit includes two bedrooms on the first floor; up to six guests are permitted. The second floor unit has one bedroom; up to four guests are permitted.**



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- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, there are three properties with an approved conditional use permit for short term rental of a dwelling unit not the primary residence of the host within 600 ft. of the subject property (see Attachment 3). This is the second of two cases being considered at this hearing regarding two neighboring properties (120 and 122 N. Bellaire), each of which is a non-conforming duplex residence. If the previous case (122 N. Bellaire) has been approved, it would result in an additional existing short-term rental within 600 ft. of the site for consideration in this case, bringing the existing total to four.**
- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The existing structure is a duplex residence, which is permitted in the R-5A zone. The site exceeds density standards, however, and cannot accommodate two dwelling units. Non-conforming rights for the duplex use must be established.**
- F. Food and alcoholic beverages shall not be served by the host to any guest.
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.

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- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **LDC standards credit the site with one on-street parking space along the property frontage. A two-vehicle garage at the rear of the site will not be available for guest use.**
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief.
- K. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental pursuant to the Louisville Metro Code of Ordinances. If the short term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void.
- L. An active registration for the short term rental, as required by the Louisville Metro Code of Ordinances, shall be maintained. No short term rentals may take place unless the registration is active and in the name of the current host and property owner. If the registration is not renewed and lapses for six months, or in the event of a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by this Land Development Code; now, therefore be it

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1180 does hereby **APPROVE** Conditional Use Permit to allow short term

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rental of dwelling units not the primary residence of the host (LDC 4.2.63), with **RELIEF** from Standard 4D because this is more of a commercial area, it is separated by a major thoroughfare, it is behind a church, and it is on the north side, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. The Conditional Use Permit for short term rental on the subject site shall not become effective until one of the following is completed:
  - a. Nonconforming Rights for a duplex within the primary structure is successfully determined by the Office of Planning and Design Services; or
  - b. The principal structure is converted to a single family residence to the satisfaction of the Office of Planning and Design Services.
2. The required registration for short term rental use of the site shall be submitted no later than 30 days from the completion of Condition 1.

**The vote was as follows:**

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

**No: Chair Young**

**Absent: Members Jagoe, and Buttorff**

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**CASE NUMBER 18CUP1182**

Request: Conditional Use Permit for short term rental of a dwelling unit not the primary residence of the host  
Project Name: Story Short Term Rental  
Location: 1581 Story Avenue  
Owner/Applicant/Host: Thomas H. Fawbush Jr.  
Jurisdiction: Louisville Metro  
Council District: 9 – Bill Hollander  
Case Manager: Beth Jones, AICP, Planner II

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

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

**Agency testimony:**

**04:35:43** 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:**

Tom Fawbush, 6803 Lake Buckhorn Court, Louisville, KY 40291

**Summary of testimony of those in favor:**

**04:39:24** Tom Fawbush 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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**04:41:06 Board Members' deliberation**

**04:41:16** On a motion by Vice Chair Fishman, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, the discussion, and the presentation, was adopted:

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

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

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

**WHEREAS**, the Board further finds that:

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 two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **The residence has three bedrooms; up to eight guests are permitted.**

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

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

**RESOLVED**, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1182 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit not the primary residence of the host (LDC 4.2.63).

**The vote was as follows:**

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

**Absent: Members Jagoe, and Buttorff**

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The meeting adjourned at approximately 6:05 p.m.

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**Chair**

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**Secretary**