

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

September 12, 2022

A meeting of the Louisville Metro Board of Zoning Adjustment was held on Monday, September 12, 2022 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky, and also via Webex.

Members Present:

Lula Howard, Chair
Richard Buttorff, Vice Chair
Sharon Bond, Secretary
Yani Vozos

Members Absent:

Brandt Ford
Kimberly Leanhart

Staff Members Present:

Joe Haberman, Planning & Design Manager
Brian Davis, Planning & Design Manager
Chris French, Planning & Design Supervisor
Joel Dock, Planning & Design Coordinator
Julia Williams, Planning Supervisor
Laura Ferguson, Legal Counsel
Chris Cestaro, Management Assistant

The following cases were heard:

**BOARD OF ZONING ADJUSTMENT
MEETING MINUTES
September 12, 2022**

AUGUST 29, 2022 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:04:30 On a motion by Member Bond, seconded by Member Vozos, Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Minutes of the August 29, 2022 Board of Zoning Adjustment meeting.

The vote was as follows:

YES: Members Buttorff, Vozos, Bond, and Chair Howard.

ABSENT: Members Ford and Leanhart.

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PUBLIC HEARING

Case No. 22-MCUP-0001

Project Name: River Metals Recycling
Location: 2110 Metal Ln, 2045 River Rd, 2114 Metal Ln, 2300 Metal Ln, 2255 Metal Ln, and 2601 River Green Circle
Owner: River Metals Recycling, Inc.
Applicant: Planning Director, Office of Planning and Design Services
Jurisdiction: Louisville Metro
Council District: # 4 – Jecorey Arthur
Case Manager: Chris French, AICP, Planning and Design Supervisor

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

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

Agency testimony:

00:05:34 Chris French presented the case. He said the applicant has agreed to do a seismic study for the property, and this is the three-month update (see recording for detailed presentation.)

The following spoke in favor of the request:

Nick Nicholson, Stoll Keenon Ogden, 500 W Jefferson St #2000, Louisville, KY 40202

Mohamad Sharif, Vibra-Tech Vice President and Senior Engineer, 506 Leicester Circle, Louisville, KY 40222

Brian Warner, 9117 Leesgate Road Suite 100, Louisville, KY 40222

Summary of testimony of those in favor:

00:07:29 Nick Nicholson, the applicant's representative, introduced the status report/update of the study (see recording for detailed presentation.)

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Case No. 22-MCUP-0001

00:08:48 Mohamad Sharif presented the update on the Ground Vibration Measurement Summary, which included a Power Point presentation, and responded to questions from the Board Members (see recording for detailed presentation and discussion.)

00:28:25 Brian Warner was called but did not speak. He said he is with the applicants' team and was available for questions.

The following spoke in opposition of the request:

Kim Swenson, 13 Arctic Spring, Jeffersonville, IN 47130

Dave Vislisel, 45 Warren Road, Louisville, KY 40206

Anthony Ray, 44 Warren Road, Louisville, KY 40206

Summary of testimony of those in opposition:

00:29:21 Kim Swenson asked why summers are quiet and winters loud? She said she submitted some photos, and said there are evenings, usually between 7:30-10:00 p.m., when there is "a great deal of smoke and fire" coming from the facility. She said she lives across the river from River Metals and asked how the water transmits sounds and vibrations, as opposed to ground only. Commissioner Howard said the applicant should address these questions during rebuttal.

00:32:27 Anthony Ray said that there was one major explosion, on September 2nd, that shook his house, along with a few other more minor ones. He said the neighbors have submitted logs of these events for years. He said the neighbors have insurance concerns and asked if the applicant would consider planting seismographs in his yard. He said River Metals has told residents that they have "processes" to eliminate these explosions. He said that, if the applicant would follow these processes, the need for these seismic studies would be eliminated. In response to questions from Board Member Buttorff, Mr. Ray said that incidents have reduced since the Board of Zoning Adjustment got involved. In response to a question from Commissioner Howard, Mr. Ray described where he lives in relation to the facility.

00:37:12 In response to a question from Board Member Bond, Mr. Nichols said the testing does not stop and was taking place on September 2nd of this year.

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Case No. 22-MCUP-0001

00:37:58 Dave Vislisel described the shaking of his house due to explosions. He suggested putting a seismograph on neighbors' property.

Rebuttal:

00:42:41 Mr. Nichols delivered rebuttal (see recording for detailed presentation.)

00:44:23 Mr. Sharif presented testimony and answered questions from those in opposition (see recording.)

00:50:45 Board Members' deliberation

00:55:04 Commissioner Howard asked Mr. Nicholson to ask the applicant if they would be willing to agree to an added Condition of Approval stating that no operations would take place at night.

00:56:36 On a motion by Member Bond, seconded by Member Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** this case to a Board of Zoning Adjustment meeting in February 2023, with a specific date to be determined, to present the next update to the Board.

The vote was as follows:

YES: Members Buttorff, Vozos, Bond, and Chair Howard.

ABSENT: Members Ford and Leanhart.

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0134

Project Name: Hoertz Avenue Variance
Location: 1314 Hoertz Avenue
Owner/Applicant: Katrina Miller
Representative: Cliff Ashburner, Dinsmore & Shohl, LLP
Jurisdiction: Louisville Metro
Council District: 15 – Kevin Triplett
Case Manager: Heather Pollock, Planner I

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

Agency testimony:

00:57:36 Chris French presented the case on behalf of heather Pollock (see staff report and recording for detailed presentation)

The following spoke in support of the request:

Cliff Ashburner, Dinsmore & Shohl, 101 S 5th St #2500, Louisville, KY 40202

Summary of testimony of those in support:

00:58:42 Cliff Ashburner, the applicant's representative, presented the applicant's case, including a Power Point presentation, and responded to questions from the Board Members. Mr. Ashburner reviewed the rendering of the deck and proposed landscaping (see recording for detailed presentation and discussion.)

The following spoke in opposition to the request:

No one spoke.

01:06:25 Board Members' deliberation

01:07:37 On a motion by Member Vozos, seconded by Member Bond, the following resolution, based on evidence and testimony heard today, was adopted:

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CASE NUMBER 21-VARIANCE-0134

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0134 does hereby **APPROVE** the Variance from Land Development Code Table 5.2.2 to allow an open unenclosed deck to encroach into the side yard and front yard setbacks (location of the first variance is the front yard setback; the requirement is 15 feet, the request is 0 feet, thus creating a Variance of 15 feet. The location of the second variance is the side yard setback; the requirement is 2.5 feet, the request is 0 feet, thus creating a variance of 2.5 feet.) and **SUBJECT** to the following Condition of Approval:

- 1) Existing portions of deck within the Right of Way must be removed within 6 months of the approval of this variance.

The vote was as follows:

YES: Members Bond, Vozos, Vice Chair Buttorff, and Chair Howard.

ABSENT: Members Ford and Leanhart.

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0091

Request: **TO BE CONTINUED TO THE OCTOBER 17, 2022 BOZA MEETING** – Variance to allow a private yard area to be less than the required 30% of the area of the lot

Project Name: Woodland Avenue Variance

Location: 2328 Woodland Avenue

Owner/Applicant: Robert A. Harris

Jurisdiction: Louisville Metro

Council District: 6 – David James

Case Manager: Heather pollock, Planner I

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

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

Agency testimony:

01:09:36 There was no staff or public testimony. Chair Howard said there is a request to continue this case to the October 17, 2022 Board of Zoning Adjustment meeting.

01:10:17 On a motion by Member Vozos, seconded by Member Bond, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 22-VARIANCE-0091 to the **October 17, 2022** Board of Zoning Adjustment meeting.

The vote was as follows:

YES: Members Bond, Vozos, Vice Chair Buttorff, and Chair Howard

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ABSENT: Members Ford and Leanhart.

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CASE NUMBER 22-VARIANCE-0100

Project Name: Powell Avenue Fence Variance
Location: 3646 Powell Ave
Owner/Applicant: Daniel Most
Jurisdiction: Louisville Metro
Council District: 15 – Kevin Triplett
Case Manager: Heather Pollock, Planner I

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

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

Agency testimony:

01:11:09 Chris French presented the case on behalf of Heather Pollock and showed a slideshow presentation. Mr. French responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Hermon Hewitt, 11504 Maple Brook Drive, Louisville, KY 40241

Daniel Most, 17015 Pitton Way, Louisville, KY 40245

Summary of testimony of those in favor:

01:16:35 Hermon Hewitt, part owner of the property, said the reason for this request is because the property has experienced multiple incidents of gang violence and shooting, as well as thefts.

11:17:39 In response to a question from Commissioner Howard, Ms. Hewitt said she is requesting a 72-inch fence (6 feet). Ms. Hewitt said they are willing to put it five feet back from the house. Member Bond and Chair Howard agreed that a survey is needed to determine the existing property lines. Laura Ferguson, Legal Counsel for the

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CASE NUMBER 22-VARIANCE-0100

Board of Zoning Adjustment, agreed that a survey is needed and added that a variance would not permit an applicant to build in the right-of-way (see recording for detailed discussion.)

01:21:17 Daniel Most, part owner of the property, reiterated that security and safety issues are becoming a concern and have increased the need for a 6-foot tall privacy fence. He said they are willing to get a survey done. Chair Howard asked if the applicants are willing to add a Condition of Approval that they will submit a survey to the Planning & Design staff. Mr. Most said they agree. Chair Howard also told the applicants that the fence would have to be within the yard area, and not encroaching into the required yard. Mr. Most said they agree. See recording for detailed discussion.

01:25:58 Mr. French discussed the required dimensions for properties in the Traditional Neighborhood form district.

01:27:55 Chair Howard said the variance request being heard today is for the height of the fence, not for the location of the fence. Mr. French and Ms. Ferguson discussed the need for the survey (see recording.)

01:29:26 Chair Howard recommended that, If the request be moved for approval, a condition be placed on the request stating that a survey is required that would show the property lines. Mr. Most said that, once a survey is done, he can submit that as well as the plans for the fence placement,

01:32:06 Vice Chair Buttorff asked if the applicant was aware that the staff report stated that the applicant should get a survey/ site plan before today's hearing.

The following spoke in opposition of the request:

No one spoke.

01:33:16 Board Members' deliberation

01:36:47 Member Vozos, seconded by Chair Howard, made a motion, based on evidence and testimony heard today, to approve the requested Variance from Land Development Code section 4.4.3.A.1.a.i to allow a fence to exceed 42 inches in height in the street side yard setbacks (location: street side yard; requirement is 42 inches; the request is for 72 inches, thus creating a variance of 30 inches), and **SUBJECT** to the

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following Conditions of Approval, which Member Vozos said addresses concerns discussed today:

- 1) The finished side of wood and vinyl fences must face out towards the public right of way and adjoining properties.
- 2) The applicant will have a survey conducted of the property line and showing the proposed location of the fence, and will submit the survey to Planning & Design Services staff.

The motion failed by the following vote:

YES: Members Vozos and Chair Howard.

NO: Member Bond and Vice Chair Buttorff.

ABSENT: Members Ford and Leanhart.

01:39:35 additional Board Members' deliberation

01:45:48 On a motion by Vice Chair Buttorff, seconded by Member Bond, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby CONTINUE this case to the October 17, 2022 Board of Zoning Adjustment meeting to give the applicant time to provide a better drawing (an illustration of what the fence is going to look like), photographs, and a survey that clearly shows the property lines and where the fence will be located.

The vote was as follows:

YES: Members Vozos, Bond, Vice Chair Buttorff, and Chair Howard.

ABSENT: Members Ford and Leanhart.

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CASE NUMBER 22-VARIANCE-0039

Project Name: 1904 Frankfort Ave
Location: 1904 Frankfort Ave
Owner(s): Shree Hari Gopal 1007 LLC
Applicant: Shree Hari Gopal 1007 LLC
Jurisdiction: Louisville Metro
Council District: 9- Bill Hollander
Case Manager: Julia Williams, AICP, Planning Supervisor

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

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

Agency testimony:

01:48:43 Julia Williams presented the case on behalf of Heather Pollock and showed a slideshow presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Missy Legel, Civil Design Inc, 9400 Bunsen Parkway Suite 150, Louisville, KY 40220

Jason Lange, 11106 Decimal Drive, Louisville, KY 40299

Summary of testimony of those in favor:

01:55:13 Missy Legel, the applicant's representative, presented the applicant's case, including a Power Point presentation, and responded to questions from the Board Members (see recording for detailed presentation and discussion.) She pointed out the specific location of the curb cut that will be moved.

The following spoke in opposition to the request:

Susan and Michael Doyle, 1882 Frankfort Avenue, Louisville, KY 40206

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Summary of testimony of those in opposition:

02:02:32 Susan Doyle gave some history about the subject site and their own home, which is adjacent to the liquor store. She detailed the litter, crime and harassment against her and her family and the community coming from the patrons of the store. She said there is another liquor store up the street which presents no problems. She said that, if the owners can't take care of the property that they already have, why would an expansion be allowed? She also answered questions from the Board members (see recording for detailed presentation.)

02:13:00 Michael Doyle also detailed the crime and harassment he and his family have experienced, and reiterated that, if the current owners have no control over their property, why would an expansion be allowed. He said the owners do not live in the Clifton community and do not take care of the business or the site. He said he came before the Code Enforcement Board about three years ago regarding the same problems with the store, and was told that "everything was going to change". He said nothing has changed, but has gotten worse. He also asked what the new building is going to be, and said he has never gotten an answer from the owner. He also answered questions from the Board members (see recording for detailed presentation.)

02:23:06 In response to a question from Member Buttorff, Julia Williams said the addition had been staff-approved by the Preservation/Urban Design staff; it was submitted to the Clifton review for a Certificate of Appropriateness. She also answered questions from Laura Ferguson, legal counsel for the Board of Zoning Adjustment, regarding setback requirements (see recording for detailed discussion.)

Rebuttal:

02:26:42 Ms. Legel delivered the applicant's rebuttal. Chair Howard specifically wanted to know why the applicant is building this new building, and regarding issues raised about the environment of the use. Ms. Legel answered questions from the Board Members (see recording for detailed presentation.)

02:35:04 Board Members' deliberation

02:49:28 The Board Members came out of deliberation to allow testimony from an applicant's representative.

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02:49:28 Jason Lange, the architect and contractor for the applicant, said the original intent was to do a new building; however, the applicant was prevented from doing that due to the neighborhood guidelines. Because of the age of the building, it falls into the guidelines of a historic property. He gave a history of the project and explained why the applicant had been prevented from improving the property. He also answered questions from the Board Members (see recording for detailed discussion.)

02:55:07 The Board closed the hearing and resumed deliberation.

Ms. Legal answered some questions from the Board Members regarding design, elevations, and landscaping.

03:04:53 Before making a motion or voting on this case, the Board recessed for 10 minutes.

03:05:35 The Board came out of recess.

03:05:35 Julia Williams said the applicant would like to continue the case.

03:07:09 On a motion by Member Bond, seconded by Vice Chair Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** this case to the **October 17, 2022** Board of Zoning Adjustment meeting.

The vote was as follows:

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

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PUBLIC HEARING

PRIMARY CASE NUMBER 22-CAT3-0006 (also 22-VARIANCE-0055, 22-VARIANCE-0056, 22-WAIVER-0067, 22-WAIVER-0068)

Project Name: Beecher Terrace Phase IV
Location: 1200 W Jefferson Street
Owner(s): Louisville Metro Housing Authority
Applicant: Civil Design, INC.
Jurisdiction: Louisville Metro
Council District: 4 – Jecorey Arthur
Case Manager: Molly Clark, Planner II

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

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

Agency testimony:

03:09:13 Molly Clark presented the case and showed a slideshow presentation. She also responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Missy Legel, Civil Design Inc, 9400 Bunsen Parkway Suite 150, Louisville, KY 40220

Summary of testimony of those in favor:

03:15:22 Missy Legel, the applicant's representative, presented the applicant's case and showed a Power Point presentation. She also answered questions from the Board Members (see recording for detailed presentation and discussion.)

The following spoke in opposition of the request:

No one spoke.

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The following spoke neither for nor against the request:

Kathleen O'Neil, Louisville Metro Housing Authority, 420 South 8th Street, Louisville, KY 40203 (signed up but did not speak; was available to answer questions)

03:19:34 Board Members' deliberation

Variances:

1. **Variance from Chapter 5.2.1.C.3 (22-VARIANCE-0055) for the front yard setback to exceed 15 ft from the right-of-way as shown on the development plan.**
2. **Variance from Chapter 5.2.1.C.6 (22-VARIANCE-0056) to allow all corner lots within the Downtown Form District to NOT maintain a zero foot setback from the street wall for at least 50 feet from the intersection along each street, or the width of the lot, whichever is less.**

03:20:44 On a motion by Vice Chair Buttorff, seconded by Member Vozos, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

(Variance #1) WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare since the building will be constructed up to all applicable building codes; and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the area has a mix of housing types and setbacks; and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the overall development will provide for a mix of high quality housing to replace older housing on the site; and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the overall development will be high density residential development that is in keeping with the zoning district; and

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

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land; and

WHEREAS, the Board further finds that the circumstances are the result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought; and

(Variance #2) WHEREAS, the Board further finds that the requested variance will not adversely affect the public health, safety or welfare since the buildings will be constructed up to all applicable building codes; and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the area has a mix of housing types and setbacks; and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the overall development will provide for a mix of high quality housing to replace older housing on the site; and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the overall development will be high density residential development that is in keeping with the zoning district; and

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

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land; and

WHEREAS, the Board further finds that the circumstances are the result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from Chapter 5.2.1.C.3 (Case Number 22-VARIANCE-0055) for

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the front yard setback to exceed 15 ft from the right-of-way as shown on the development plan; **AND** the requested Variance from Chapter 5.2.1.C.6 (Case Number 22-VARIANCE-0056) to allow all corner lots within the Downtown Form District to NOT maintain a zero foot setback from the street wall for at least 50 feet from the intersection along each street, or the width of the lot, whichever is less.

The vote was as follows:

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

Waivers:

1. **Waiver from 5.2.1.C.2 (22-WAIVER-0067) to not provide the required 3 story street wall along all frontages of the proposed development**

2. **Waiver from 5.8.1.C.1.B (22-WAIVER-0068) to not provide the required 84 inch wide sidewalks as shown on the development plan.**

03:21:30 On a motion by Member Bond, seconded by Vice Chair Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

(Waiver #1) WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners since there are multiple building frontages and pedestrian connections. The overall development will be a medium-density mix of high quality housing that is in keeping with the area; and

WHEREAS, the Board further finds that new development and redevelopment should be compatible with the scale and site design of nearby existing development and with the pattern of development within the form district. The development will be compatible with other development in the area; and

WHEREAS, the Board further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since there is a development pattern proposed for the site that is consistent with the development pattern of the area; and

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WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant since the development pattern required would not be in keeping with the residential development that is proposed to meet housing needs in the area; and

(Waiver #2) WHEREAS, the Board further finds that the waiver will not adversely affect adjacent property owners, as there will still be quality sidewalks and street trees on all roadways within and around the development; and

WHEREAS, the Board further finds that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. New development should provide for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. The waiver would not violate the Comprehensive Plan, as the whole site will have pedestrian connections that integrate into the surrounding area; and

WHEREAS, the Board further finds that the extent of the regulation is the minimum necessary to afford relief to the applicant, as 6 foot wide sidewalks will be provided adjacent to all rights-of-way in and around the development site; and

WHEREAS, the Board further finds that the strict application of the provisions of this regulation as would create an unnecessary hardship on the applicant, as the required sidewalk widths are beyond what is necessary to serve the residential use proposed; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Waiver from 5.2.1.C.2 (Case Number 22-WAIVER-0067) to not provide the required 3 story street wall along all frontages of the proposed development; **AND** the requested Waiver from 5.8.1.C.1.B (Case Number 22-WAIVER-0068) to not provide the required 84 inch wide sidewalks as shown on the development plan.

The vote was as follows:

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

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Category 3 Development Plan

03:22:48 On a motion by Member Vozos, seconded by Vice Chair Buttorff, the following resolution, based the evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Category 3 Development Plan.

The vote was as follows:

YES: Members Bond, Vozos, Vice Chair Buttorff, and Chair Howard.
ABSENT: Members Ford and Leanhart.

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PUBLIC HEARING

CASE NUMBER 22-CUP-0012

Project Name: Islamic School of Louisville Activity Center
Location: 8215 Old Westport Road
Owner(s): Islamic School of Louisville, Inc.
Applicant: Scott Whitaker
Jurisdiction: Louisville Metro
Council District: 7 – Paula McCraney
Case Manager: Chris French, Planning & Design Supervisor

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

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

Agency testimony:

03:24:40 Chris French presented the case and showed a slideshow presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

R. Scott Whitaker, 1860 Frankfort Road, Shelbyville, KY 40065

Summary of testimony of those in favor:

03:30:21 Scott Whitaker, the applicant's representative, presented the applicant's case and explained why the variances were being requested (see recording for detailed presentation.)

The following spoke in opposition of the request:

No one spoke.

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PUBLIC HEARING

CASE NUMBER 22-CUP-0012

03:33:02 **Board Members' deliberation**

Conditional Use Permit (CUP) to allow a private institutional use

03:33:44 On a motion by Member Vozos, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the existing development was constructed prior to the establishment of the CUP requirement for private institutional uses; and

WHEREAS, the Board further finds that the proposal meets all applicable policies of the Comprehensive Plan; and

WHEREAS, the Board further finds that the proposed use and improvements are compatible with surrounding development and land uses; and

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. Transportation Planning and MSD have preliminarily approved the plan; and

WHEREAS, the Board further finds that:

1. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

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

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

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PUBLIC HEARING

CASE NUMBER 22-CUP-0012

Staff review: the existing building and proposed addition are closer than 30 feet to the property lines of adjacent residential development. Variances were previously granted for the existing buildings' locations and a variance to modify the setback to 21.5 feet has been applied for to allow the addition. The Board must also grant relief from this requirement in order to approve the CUP. In that part of this relief is for existing development that has received a variance, staff is supportive of granting such relief. For the proposed addition, staff is in support of the modified variance request and therefore, staff is in support of relief to this standard.

- B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated.

Staff review: The plan has received preliminary approval from Transportation Planning.

- C. Off-street parking not located within a driveway shall be located to the side or rear of the building(s). The number of required off-street parking spaces shall be determined by the Planning Director in consultation with the Director of Public Works based on the standards for the closest comparable use and on the particular parking demand and trip generation characteristics of the proposed use.

Staff review: There is an existing parking area located next to Old Westport Road and proposed parking between the proposed addition and Westport Road. Relief is needed to this standard in order to approve the CUP. Staff is supportive of this relief based on location of existing structures and parking on the property.

- D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).

Staff review: The applicant is aware of this requirement.

- E. The Board of Zoning Adjustment may set hours of operation for the institutional use in order to minimize potential negative impacts on surrounding residential properties.

Staff review: The Board determined that limits on hours of operation were not needed.

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PUBLIC HEARING

CASE NUMBER 22-CUP-0012

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Conditional Use Permit (CUP) to allow a private institutional use, **SUBJECT** to the following Conditions of Approval:

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

The vote was as follows:

YES: Members Bond, Vozos, Vice Chair Buttorff, and Chair Howard
ABSENT: Members Ford and Leanhart.

Variances:

Variance #1 - Variance to allow a proposed addition to encroach within the required side and rear setback (22- VARIANCE-0115) – Table 5.3.2;

Variance #2 - Variance to allow a proposed addition to be setback beyond the maximum setback requirement along Old Westport Road (22-VARIANCE-0115) – Table 5.3.2

03:37:16 On a motion by Member Vozos, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the evidence and testimony heard today, was adopted:

(Variance #1) WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as it will not impede the safe movement of pedestrians or vehicles and will be constructed to comply with all building codes; and

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WHEREAS, the Board further finds that the proposal will not alter the essential character of the general vicinity as the variance is needed in a small corner of the property and the design of the building addition will be consistent with the existing building; and

WHEREAS the Board further finds that the requested variance will not cause a hazard or nuisance to the public as it is located to the rear of the property away from the public realm and the variance impacts only a small portion of the property based on the shape of the property boundaries; and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as it presents no adverse impacts to public safety, does not alter the character of the area, and does not create a hazard or nuisance; and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to the land in the general vicinity since the shape of this property is inconsistent with surrounding properties and does impact construction in relation to setback requirements. In addition, the property is separated from Westport Road by environmental constraints; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant based on the shape of the property and how the proposed addition relates to the existing building; and

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

(Variance #2) WHEREAS, the Board further finds that the requested variance will not adversely affect the public health, safety or welfare as it will not impede the safe movement of pedestrians or vehicles and will be constructed to comply with all building codes; and

WHEREAS, the Board further finds that the proposal will not alter the essential character of the general vicinity as the building addition is consistent to the existing building on the site and the variance is needed based on the location of the existing building and parking on the site; and

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CASE NUMBER 22-CUP-0012

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since a portion of the existing building is located in close proximity to Old Westport Road and the new addition will be connected to the existing building. The location of the building addition will not cause a hazard or nuisance to the public; and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as it presents no adverse impacts to public safety, does not alter the character, and does not create a hazard or nuisance; and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to the land in the generally vicinity or the same zone since the shape of this lot is not consistent with surrounding properties and the proposed building additional location is based on the location of the existing building and parking on the property. In addition, the property is separated from Westport Road by environmental constraints; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship since it would cause changes to the proposed building addition that would negatively impact the building as well as how the building addition relates to the existing building; and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting appropriate relief; now therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance to allow a proposed addition to encroach within the required side and rear setback (22- VARIANCE-0115) – Table 5.3.2 (**Requirement is 25 feet; the Request is 21.5 feet; Variance is 3.5 feet**); **AND** the requested Variance to allow a proposed addition to be setback beyond the maximum setback requirement along Old Westport Road (22-VARIANCE-0115) – Table 5.3.2 (**Requirement is 80 feet; the Request is for 220 feet; the Variance is 140 feet**).

The vote was as follows:

YES: Members Bond, Vozos, Vice Chair Buttorff, and Chair Howard

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CASE NUMBER 22-CUP-0012

ABSENT: Members Ford and Leanhart.

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PUBLIC HEARING

CASE NUMBER 22-MCUP-0002

Project Name:	Cabbage Patch Settlement House
Location:	1421 S. 6th Street
Owner(s):	Cabbage Patch Settlement House
Applicant:	Cabbage Patch Settlement House
Jurisdiction:	Louisville Metro
Council District:	6 – David James

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

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

Agency testimony:

03:38:48 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation). He also answered questions from the Board Members, particularly regarding the pick up/drop off area.

The following spoke in favor of the request:

Tanner Nichols, Frost Brown Todd, 400 West Market Street, Louisville, KY 40202

Summary of testimony of those in favor:

03:46:15 Tanner Nichols, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

The following spoke in opposition of the request:

No one spoke.

03:49:39 Board Members' deliberation

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PUBLIC HEARING

CASE NUMBER 22-MCUP-0002

03:50:00 On a motion by Vice Chair Buttorff, seconded by member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with Plan 2040 as existing contributing structures in this historic, walkable, and well-connected neighborhood are being repurposed to provide additional community services; and

WHEREAS, the Board further finds that no improvements are being made that reduce compatibility with surrounding land uses or the general area. Exterior changes are limited to a gardening area and space for equipment that is enclosed by a 6' wood privacy fence; and

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. Preliminary approval has been received by MSD and Transportation Planning; and

WHEREAS, the Board further finds that the modification of this conditional use permit available within the TNZD only does not have lettered standards contained in Section 4.2 of the Land Development Code and is subject to those considerations listed above and in Section 11.5A.1.B; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 22-MCUP-0002 does hereby APPROVE the requested Modified Conditional Use Permit for the expansion of a community center in the Traditional Neighborhood Zoning District (TNZD), **SUBJECT** to the following Conditions of Approval:

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

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3. The passenger pick-up/drop-off area shall be provided as shown on the approved plan and shall hold an annual license from the Louisville Metro Department of Public Works and Assets.

The vote was as follows:

YES: Members Bond, Vozos, Vice Chair Buttorff, and Chair Howard

ABSENT: Members Ford and Leanhart.

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PUBLIC HEARING

CASE NUMBER 22-CUP-0203

Project Name: Sleepy Dreams Daycare
Location: 4925 Applegrove Lane
Owner(s): Gray Anchor Homes, LLC
Applicant: Amanda Fletcher
Jurisdiction: Louisville Metro
Council District: 2 – Barbara Shanklin
Case Manager: Joel Dock, AICP, Planning Coordinator

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

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

Agency testimony:

03:50:55 Joel Dock presented the case and showed a Power Point presentation He also responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Amanda Fletcher, 4925 Applegrove Lane, Louisville, KY 40218

Summary of testimony of those in favor:

03:55:31 Amanda Fletcher, the applicant, presented her case and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition to the request:

No one spoke.

03:58:44 Board Members' deliberation

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PUBLIC HEARING

CASE NUMBER 22-CUP-0203

03:59:10 On a motion by Member Vozos, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with Plan 2040. No changes in the exterior appearance of the residence is taking place which decrease compatibility with the area or the form district. The proposal advances the equitable distribution of community services and promotes neighborhoods that have access to the resources necessary to maintain health and well-being, including access to child care; and

WHEREAS, the Board further finds that the proposal is compatible with the area and form district as no changes are proposed to the residence which changes the exterior appearance; and

WHEREAS, the Board further finds that necessary facilities are available. Both employees of the proposed child care center are residents of the subject property. The driveway provides parking for one employee/resident, as well as space for pick-up/drop-off. One on-street space abutting the property frontage is also available for employee/resident parking. Transit is available in the area and sidewalks are present in the neighborhood; and

WHEREAS, the Board further finds that:

1. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

Child and Adult Care Centers may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, PRD, R-7, TNZD, M-1, M-2, and M-3 districts upon granting of a Conditional Use Permit and in compliance with the listed requirements:

A. Existing Residential Structure

1. The structure shall remain, or property improved so that the exterior design and ornamentation is residential in character and compatible with the immediately surrounding neighborhood and form district(s).

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2. Should the structure remain, there shall be no alterations or improvements which would impair future use of the structure as a primary residence.
3. Associated off-street parking shall not be located between the principal structure and the front property line or within the street side yard setback, except on driveways leading to the home, rear yard, or garage.
4. Outdoor activities shall be limited to the rear yard, except that corner lots may utilize the street side yard. No play equipment in excess of 4' in height is allowed in the required street side yard of the form district.

B. Industrial Zoning Districts – Standards Not applicable

C. Drainage Control – Preliminary plan approval must be received by the Louisville Metro Sewer District (MSD).

D. Fence – A fence shall enclose all areas for outdoor activity.

E. Signs – In residential zoning districts, there shall be allowed one non-illuminated attached business sign not to exceed 4 square feet in area, regardless of the form district. No changing image signs shall be permitted.

F. Hours – No outdoor activities shall occur between the hours of 9 P.M. and 7 A.M., except for pick-up/drop-off.

G. Buildings – All buildings and structures shall conform to the requirements of the zoning and form district in which they are located.

H. The use shall be in compliance with all applicable regulations as administered by the Kentucky Cabinet for Health and Family Services.

Staff: The existing residential structure will not be modified in a manner which prevents future use as a residence. State licensing requires that the home remain the primary residence of the operator. The applicant is the primary resident and modifications will not prevent future use as a residence. The applicant will be installing hard-wired smoke detectors and exit signage to comply with licensing requirements. Outdoor activities occur in the rear yard, which is enclosed by a 6' wood, privacy-style fence. The current driveway will be utilized for pick-up and drop-off.

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CASE NUMBER 22-CUP-0203

now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 22-CUP-0203 does hereby **APPROVE** the requested **Conditional Use Permit** for Child Care Center (LDC 4.2.19) and **SUBJECT** to the following Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for child care center until further review and approval by the Board.
3. The child care center shall not provide care for more than 12 children, unless approved by the Board.
4. Passenger pick-up/drop-off shall occur in the area designated on the approved plan within the driveway, unless otherwise approved by the Board of Zoning Adjustment.

The vote was as follows:

YES: Members Bond, Vozos, Vice Chair Buttorff, and Chair Howard

ABSENT: Members Ford and Leanhart.

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PUBLIC HEARING

CASE NUMBER 22-CUP-0147

Project Name: Central Short Term Rental
Location: 923 Central Avenue
Owner(s): HELU Group, LLC
Applicant: Ericka Bibb
Jurisdiction: Louisville Metro
Council District: 3 – Keisha Dorsey
Case Manager: Heather Pollock, Planner I

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

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

Agency testimony:

04:00:26 Chris French presented the case on behalf of Heather Pollock and showed a Power Point presentation. He also answered questions from the Board Members (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Ericka Bibb, P.O. Box 43054, Louisville, KY 40253

Summary of testimony of those in support:

04:04:00 Ericka Bibb, the applicant, presented the applicant's case and answered questions from the Board Members (see recording for detailed presentation.) She noted that the house has been sitting empty for approximately 15+years.

The following spoke in opposition to the request:

No one spoke.

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PUBLIC HEARING

CASE NUMBER 22-CUP-0147

04:11:21 Board Members' deliberation

04:14:59 On a motion by Member Bond, seconded by Vice Chair Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

WHEREAS, the Board further finds that when appropriately managed, the proposed use is compatible with surrounding development and land uses; and

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

WHEREAS, the Board further finds that:

1. Does the proposal comply with the specific standards required to obtain the requested conditional use permit?

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

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

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number of bedrooms plus six individuals. ***The applicant has submitted a floor plan that proposes the residence will have 2 bedrooms that will allow a maximum number of 6 guests.***

- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. ***As of the date of this report, within 600' of the subject property, there are 2 properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host. The applicant is requesting relief to the provision in accordance with LDC Section 4.2.2.B. If the Board does not grant relief, the application does not meet all of the listed requirements and the conditional use permit cannot be approved.***
- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. ***The applicant has been informed of this requirement.***
- F. Food and alcoholic beverages shall not be served by the host to any guest. ***The applicant has been informed of this requirement.***
- G Outdoor signage which identifies the short term rental is prohibited in residential zoning districts. ***The applicant has been informed of this requirement.***

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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. ***The applicant has stated there are 2 off-street parking spots. LDC standards credit the site with 1 on-street parking space. In addition, there appears to be available parking in the area.***

- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances. ***The applicant has been informed of this requirement.***

- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief. ***The applicant has been informed of this requirement.***

- K. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental pursuant to the Louisville Metro Code of Ordinances. If the short term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void. ***The applicant has been informed of this requirement***

- L. An active registration for the short term rental, as required by the Louisville Metro Code of Ordinances, shall be maintained. No short term rentals may take place unless the registration is active and in the name of the current host and property owner. If the registration is not renewed and lapses for six months, or in the event of a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by this Land Development Code. ***The applicant has been informed of this requirement.***

Now, therefore be it

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RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in the R-6 Multi-Family Zoning District and Traditional Neighborhood Form District, and granting relief of Item D as stated, **SUBJECT** to the following Condition of Approval:

1. The conditional use permit approval for this short term rental shall be allowed up to 2 bedrooms (with a maximum of 6 guests at any time). Prior to use, bedrooms must meet all occupancy requirements set forth in Louisville Metro Code of Ordinances. A modification of the conditional use permit shall be required to allow additional bedrooms.

The vote was as follows:

YES: Member Bond, Vice Chair Buttorff, and Chair Howard.

NO: Member Vozos.

ABSENT: Members Ford and Leanhart.

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PUBLIC HEARING

CASE NUMBER 22-CUP-0160

Project Name: Stoll Avenue Short Term Rental
Location: 134 Stoll Avenue
Owner(s): Rachel Ann Oittinen
Applicant: Rachel Oittinen
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
Case Manager: Chris French, Planning & Design Supervisor

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

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

Agency testimony:

04:17:22 Chris French presented the case and showed a slideshow presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Christian and Rachel Oittinen, 134 Stoll Avenue, Louisville, KY 40206

Summary of testimony of those in favor:

04:21:23 Chrisian Oittinen, one of the the applicants, presented the applicant's case and answered questions from the Board Members. Joe Haberman, Planning & Design Manager, discussed regulations related to the two other short-term rentals which have lapsed registrations but are within the 600 foot radius (see recording for detailed presentation and discussion.)

04:28:29 Rachel Oittinen emphasized that the site is very close to commercial areas on Frankfort Avenue. She also answered questions from Board Members (see recording for detailed presentation.)

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CASE NUMBER 22-CUP-0160

The following spoke in opposition of the request:

Amelia Preston, 132 Stoll Avenue, Louisville, KY 40206

Mike O'Leary, President of the Clifton Community Council, 1963 Payne Street,
Louisville, KY 40206

Summary of testimony of those in opposition:

04:31:37 Amelia Preston spoke in opposition (see recording for detailed presentation.)

04:35:13 Mike O'Leary, representing the Clifton Community Council, spoke in opposition and also answered some questions from Board Members (see recording for detailed presentation.)

04:42:39 Rebuttal

Christian Oittinen delivered rebuttal and discussed some issues, including the lapsed registrations of other short-term rental owners in the area, with staff and the Board Members (see recording for detailed discussion.)

04:45:38 Board Members' deliberation

04:51:51 On a motion by Vice Chair Buttorff, seconded by Member Vozos, the following resolution, based upon the Standard of Review and Staff Analysis, and evidence and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that insufficient justification was presented to grant relief from Item D, because, as of the date of the staff report, within 600' of the subject property, there are two properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host. Both of these properties do not have current registrations. However, 18CUP1087 was approved prior to standard L being added to the code; therefore, this CUP case is still valid and could obtain a registration in the future. Case 19-CUP-0219 was approved with standard L in place and is considered null and void; now therefore be it

**BOARD OF ZONING ADJUSTMENT MINUTES
September 12, 2022**

PUBLIC HEARING

CASE NUMBER 22-CUP-0160

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the requested Conditional Use Permit to allow short term rental of dwelling unit 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 Bond, Vozos, Vice Chair Buttorff, and Chair Howard

ABSENT: Members Ford and Leanhart.

BOARD OF ZONING ADJUSTMENT MINUTES
September 12, 2022

PUBLIC HEARING

CASE NUMBER 22-CUP-0172

Project Name: Taylor Avenue Short Term Rental
Location: 1633 Taylor Ave
Owner(s): Brandon Cayot
Applicant: Brandon Cayot
Jurisdiction: Louisville Metro
Council District: 10 – Pat Mulvihill
Case Manager: Heather Pollock, Planner I

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

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

Agency testimony:

04:52:44 Chris French presented the case on behalf of Heather Pollock and showed a Power Point presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Brandon Cayot, 1633 Taylor Avenue, Louisville, KY 40213

Summary of testimony of those in favor:

04:55:35 Brandon Cayot, the applicant, presented the case and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

05:07:23 Board Members' deliberation

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

CASE NUMBER 22-CUP-0172

05:08:17 On a motion by Member Bond, seconded by Vice Chair Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that insufficient justification was presented to grant relief from Item D because, as of the date of the staff report, within 600' of the subject property, there is 1 property with an approved conditional use permit allowing short term rentals that is not the primary residence of the host; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the requested Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in the R-5 Single Family Zoning District and Neighborhood Form District.

The vote was as follows:

YES: Members Bond, Vozos, Vice Chair Buttorff, and Chair Howard

ABSENT: Members Ford and Leanhart.

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

CASE NUMBER 22-CUP-0176

Project Name: Terrier Lane Short Term Rental
Location: 3500 Terrier Lane
Owner(s): Michael Keith Kimble, Jr.
Applicant: Michael Kimble
Jurisdiction: Louisville Metro
Council District: 26 – Brent Ackerson
Case Manager: Heather Pollock, Planner I

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

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

Agency testimony:

05:09:24 Chris French presented the case on behalf of Heather Pollock and showed a slideshow presentation. He also responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Michael Kimble, 3500 Terrier Lane, Louisville, KY 40220

Summary of testimony of those in favor:

05:11:22 Michael Kimble presented his case and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

Board Members' deliberation

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

CASE NUMBER 22-CUP-0176

05:14:39 On a motion by Member Vozos, seconded by Vice Chair Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

WHEREAS, the Board further finds that, when appropriately managed, the proposed use is compatible with surrounding development and land uses; and

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

WHEREAS, the Board further finds that:

1. Does the proposal comply with the specific standards required to obtain the requested conditional use permit?

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

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

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PUBLIC HEARING

CASE NUMBER 22-CUP-0176

The applicant states that the residence has 3 bedrooms that will allow a maximum number of 8 guests.

- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. ***As of the date of this report, within 600' of the subject property, there are no properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host.***
- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. ***The applicant has been informed of this requirement.***
- F. Food and alcoholic beverages shall not be served by the host to any guest. ***The applicant has been informed of this requirement.***
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts. ***The applicant has been informed of this requirement.***
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. ***The applicant states that there are 3 off-street parking spaces. In addition, there appears to be available on-street parking in the area.***

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- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances. ***The applicant has been informed of this requirement.***

- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief. ***The applicant has been informed of this requirement.***

- K. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental pursuant to the Louisville Metro Code of Ordinances. If the short term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void. ***The applicant has been informed of this requirement***

- L. An active registration for the short term rental, as required by the Louisville Metro Code of Ordinances, shall be maintained. No short term rentals may take place unless the registration is active and in the name of the current host and property owner. If the registration is not renewed and lapses for six months, or in the event of a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by this Land Development Code. ***The applicant has been informed of this requirement.***

now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in the R-5 Single Family Zoning District and Neighborhood Form District; **SUBJECT** to the following Condition of Approval.

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CASE NUMBER 22-CUP-0176

1. The conditional use permit approval for this short term rental shall be allowed up to 3 bedrooms (with a maximum of 8 guests at any time). Prior to use, bedrooms must meet all occupancy requirements set forth in Louisville Metro Code of Ordinances. A modification of the conditional use permit shall be required to allow additional bedrooms.

The vote was as follows:

YES: Members Bond, Vozos, Vice Chair Buttorff, and Chair Howard

ABSENT: Members Ford and Leanhart.

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The meeting adjourned at approximately 6:31 p.m.

Chair

Secretary