

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

January 22, 2019

A meeting of the Louisville Metro Board of Zoning Adjustment was held on January 22, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Rosalind Fishman, Chair
Dwight Young, Vice Chair (left at approximately 4:30 p.m.)
Lula Howard, Secretary
Lester Turner, Jr.
Lindsey Jagoe

Members Absent:

Richard Buttorff
Kimberly Leanhart

Staff Members Present:

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

The following cases were heard:

00:03:52 Chair Fishman swore in all parties who were present to speak today (see recording for detailed presentation).

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APPROVAL OF MINUTES

JANUARY 7, 2019 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:04:19 On a motion by Vice Chair Young, 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 January 7, 2019.

The vote was as follows:

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

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1086

Request:	Variance to permit a structure to encroach into a required side yard
Project Name:	S. Shelby Variance
Location:	914 S. Shelby Street
Owner:	Robin VanAmburgh
Applicant:	NEP Construction
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Beth Jones, AICP, Planner II

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

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

Agency testimony:

00:06:05 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Sarah Stanley, 1964 Richmond Drive, Louisville, KY 40205

Summary of testimony of those in favor:

00:10:44 Sarah Stanley 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 18VARIANCE1086

00:14:29 Board Members' deliberation

00:15:05 On a motion by Member Howard, seconded by Vice Chair Young, 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 reduction of the required side yard will not adversely affect the public health, safety or welfare, and

WHEREAS, the Board further finds that the proposal is in character with the existing historic residence and with other development in the vicinity, and

WHEREAS, the Board further finds that the proposed construction will meet current building codes and requirements and will not cause a public hazard or nuisance through excessive noise, vibration, odor or light, and

WHEREAS, the Board further finds that the proposed variance is justified due to existing conditions on the site, and

WHEREAS, the Board further finds that there are no special circumstances on the property, but the proposal is in keeping with existing conditions on the site and in the vicinity, and

WHEREAS, the Board further finds that the application of the regulation would not create an unnecessary hardship but is also not out of character with the vicinity, and

WHEREAS, the Board further finds that the existing subject residence was in place prior to the zoning regulation from which relief is being sought; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1086 does hereby **APPROVE** Variance to permit a structure to encroach into a required side yard (LDC 5.2.2) (**Requirement 3 ft., Request 0 ft., Variance 3 ft.**).

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The vote was as follows:

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

Absent: Members Buttorff, and Leanhart

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1116

Request:	Variances for sign area and sign height on a designated parkway with associated waivers
Project Name:	Papa John's Signage Variance
Location:	14041 Shelbyville Road
Owner/Applicant:	Orbin & Judy Green
Representative:	Derby City Signs
Jurisdiction:	Louisville Metro
Council District:	19 – Anthony Piagentini
Case Manager:	Dante St. Germain, AICP, Planner II

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

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

Agency testimony:

00:16:24 Dante St. Germain presented the case and showed a Powerpoint presentation. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Tim Vessels, 2002 Papa John's Blvd., Louisville, KY 40299

Summary of testimony of those in favor:

00:25:02 Tim Vessels 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 18VARIANCE1116

00:31:33 **Board Members' deliberation**

00:37:23 On a motion by Member Howard, seconded by Vice Chair Young, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony and discussions heard today, was adopted:

Variance #1 from Land Development Code Table 8.3.3 to allow a sign on a designated parkway to exceed the allowed square footage:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will alter the essential character of the general vicinity as the general vicinity is characterized by relatively small signs which comply with the parkway limitations, and

WHEREAS, the Board further finds that the requested variance may allow an unreasonable circumvention of the zoning regulations as the sign could be sized to fit within the parkway limitations without compromising the sign's visibility, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because there are numerous businesses along this stretch of Shelbyville Road which have complied with the parkway limitations on signage, 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 or create an unnecessary hardship on the applicant because the sign could be reduced in size without compromising the sign's effectiveness; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1116 does hereby **DENY** Variance #1 from Land Development Code Table 8.3.3 to allow a sign on a designated parkway to exceed the allowed square footage.

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The vote was as follows:

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

No: Member Turner

Absent: Members Buttorff, and Leanhart

00:38:31 On a motion by Member Howard, seconded by Vice Chair Young, the following resolution, based upon the Standard of Review and Staff Analysis, and the discussions heard today, was adopted:

Variance #2 from Land Development Code Table 8.3.3 to allow a sign on a designated parkway to exceed the allowed height:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will alter the essential character of the general vicinity as the general vicinity is characterized by signs which comply with the parkway height requirement, and

WHEREAS, the Board further finds that the requested variance may allow an unreasonable circumvention of the zoning regulations as the sign could be made a shorter, monument-style sign similar to other signs in the vicinity. The sign would have the same visibility as other signs in the area, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because there are numerous businesses along this stretch of Shelbyville Road which have complied with the parkway limitations on signage, 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 or create an unnecessary hardship on the applicant because the sign could be reduced in height without causing an unnecessary hardship, as other businesses have complied with parkway limitations with no known hardship; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1116 does hereby **DENY** Variance #2 from Land Development

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Code Table 8.3.3 to allow a sign on a designated parkway to exceed the allowed height.

The vote was as follows:

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

No: Member Turner

Absent: Members Buttorff, and Leanhart

00:40:16 On a motion by Member Howard, seconded by Vice Chair Young, the following resolution, based upon the Standard of Review and Staff Analysis, was adopted:

Waiver #1 from Land Development Code Section 8.3.3.B.9 to allow a sign on a designated parkway and in the Neighborhood Form District to not be columnar or monument style:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will violate specific guidelines of Cornerstone 2020 as Cornerstone 2020 Guideline 3 Policy 28 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 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 violated because the proposed sign is located along a designated parkway, which Cornerstone 2020 mentions as deserving special attention. The Land Development Code provides that special attention by requiring signs be monument or columnar in style, among other requirements, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant as the sign is being replaced and could be replaced with a monument-style sign like others in the vicinity, and

WHEREAS, the Board further finds that the applicant has not incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived, and the strict application of

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the provisions of the regulations would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as a monument- style sign is feasible for the location; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1116 does hereby **DENY** Waiver #1 from Land Development Code Section 8.3.3.B.9 to allow a sign on a designated parkway and in the Neighborhood Form District to not be columnar or monument style.

The vote was as follows:

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

No: Member Turner

Absent: Members Buttorff, and Leanhart

00:43:07 On a motion by Member Howard, seconded by Vice Chair Young, the following resolution, based upon the Standard of Review and Staff Analysis, was adopted:

Waiver #2 from Land Development Code Section 8.2.1.D.6 to allow a changing image sign to be closer than 300 feet to residentially zoned properties which are being used residentially:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as the nearest homes have an oblique view of the sign and are located across Shelbyville Road, a major arterial, and

WHEREAS, the Board further finds that the waiver will not violate specific guidelines of Cornerstone 2020 as Cornerstone 2020 Guideline 3 Policy 28 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 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

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changing image signs are permitted in this location and the sign is located across Shelbyville Road from the nearest affected residential properties, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as there is no location on the property where a changing image sign could be placed where it is not within 300 feet of a residential property, 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 there is no location on the property where a changing image sign could be placed that is not within 300 feet of residential properties; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1116 does hereby **APPROVE** Waiver #2 from Land Development Code Section 8.2.1.D.6 to allow a changing image sign to be closer than 300 feet to residentially zoned properties which are being used residentially.

The vote was as follows:

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

Absent: Members Buttorff, and Leanhart

00:44:08 On a motion by Member Howard, seconded by Vice Chair Young, the following resolution, based upon the Standard of Review and Staff Analysis, was adopted:

Waiver #3 from Land Development Code Section 8.2.1.D.4.a to allow a changing image panel in the Neighborhood Form District to exceed 30% of the area of the sign:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant as a smaller changing image panel could be used that complies with the requirements of the Land Development Code without compromising the sign's effectiveness, and

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WHEREAS, the Board further finds that the applicant has not incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived, and the strict application of the provisions of the regulations would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as a smaller changing image panel could be used; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1116 does hereby **DENY** Waiver #3 from Land Development Code Section 8.2.1.D.4.a to allow a changing image panel in the Neighborhood Form District to exceed 30% of the area of the sign.

The vote was as follows:

Yes: Members Howard, Jagoe, and Vice Chair Young

No: Member Turner, and Chair Fishman

Absent: Members Buttorff, and Leanhart

00:44:59 On a motion by Member Howard, seconded by Vice Chair Young, the following resolution, based upon the Standard of Review and Staff Analysis, was adopted:

Waiver #4 from Land Development Code Section 8.2.1.D.1 to allow a second changing image sign on a property:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as the additional changing image sign is located across a major arterial street from the affected properties, with the result that the changing image aspect of the sign is unlikely to have a significant impact; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1116 does hereby **APPROVE** Waiver #4 from Land Development Code Section 8.2.1.D.1 to allow a second changing image sign on a property.

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The vote was as follows:

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

No: Member Turner

Absent: Members Buttorff, and Leanhart

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1105

Request:	Variance to allow a proposed indoor soccer facility to encroach into the required front yard setback
Project Name:	Klondike Lane Variance
Location:	3606 Klondike Lane
Owner:	Alvarado Raul Magallanes
Applicant:	Charles Podgursky
Jurisdiction:	Louisville Metro
Council District:	26 – Brent Ackerson
Case Manager:	Molly Clark, Associate Planner

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:

00:48:26 Lacey Gabbard presented the case and showed a Powerpoint presentation. Ms. Gabbard responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Charles Podgursky, 7321 New LaGrange Rd., Louisville, KY 40222

Summary of testimony of those in favor:

00:53:29 Charles Podgursky 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 18VARIANCE1105

00:56:42 Board Members' deliberation

00:56:59 On a motion by Vice Chair Young, seconded by Member Howard, 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 since the building will be buffered where it is adjacent to residential, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the current shopping center is setback over 80 ft. from the road way. There is also a building located partially in front of the subject property that would be obstructed if the proposed development were to be placed 80 ft. from the roadway, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as all building codes must be followed in any new construction on the proposed lot as well as the building will be buffered where it is adjacent to residential, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations the current lot configuration makes the 80 ft. setback difficult as well as would not follow the character of the existing shopping center, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the existing shopping center is set back further than 80 ft. Also, the current dentist office and nonprofit located partially in front of the subject property would obstruct parking and the existing entrance for this building, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because there is currently an existing lot with its current configuration that makes it difficult for a proposed development to follow setback standards, and

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CASE NUMBER 18VARIANCE1105

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1105 does hereby **APPROVE** Variance from Land Development Code Chapter 5.3.2.C.2.A to permit the building to be setback more than 80' from all roadways (**Requirement 80 ft., Request 196.7 ft., Variance 116.7 ft.**).

The vote was as follows:

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

Absent: Members Buttorff, and Leanhart

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CASE NUMBER 18VARIANCE1115

Request: Variance to allow a structure to encroach into the required front yard setback
Project Name: Grandview Avenue Variance
Location: 3937 Grandview Avenue
Owner/Applicant: William Rinehart
Jurisdiction: City of St. Matthews
Council District: 9 – Bill Hollander
Case Manager: Zach Schwager, Planner I

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

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

Agency Testimony:

00:58:26 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:

William Rinehart, 3937 Grandview Ave., Louisville, KY 40207

Summary of testimony of those in favor:

01:02:25 William Rinehart 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 18VARIANCE1115

01:03:31 Board Members' deliberation

01:04:00 On a motion by Member Howard, seconded by Member Turner, 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 will not adversely affect the public health, safety or welfare as the structure will be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as St. Matthews City Hall/Eline Library is across the street, which is three stories tall, has considerable massing, and has a freestanding sign and flag poles in the front yard, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the arbor will be setback around 20 ft. from the edge of pavement on Grandview Avenue, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the arbor is in scale for a structure to be located in the front yard setback, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone because the surrounding properties have similar front yards, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the arbor is decorative in nature, and

WHEREAS, the Board further finds that the circumstances are the results of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the arbor has already been constructed within the front yard setback, and

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CASE NUMBER 18VARIANCE1115

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1115 does hereby **APPROVE** Variance from City of St. Matthews Development Code Section 4.6.C.2.a to allow a structure to encroach into the required front yard setback (**Requirement 30 ft., Request 0 ft. Variance 30 ft.**).

The vote was as follows:

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

Absent: Members Buttorff, and Leanhart

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1120

Request:	Variance to allow a private yard area to be less than the required 30% of the area of a lot, and a waiver to allow parking access from a primary street where alley access is available
Project Name:	S. 3rd Street Variance
Location:	1118 S. 3rd Street
Owner:	Sujatha S Reddy Revocable Trust
Applicant:	Robert Lindgren
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Zach Schwager, Planner I

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

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

Agency Testimony:

01:05:56 Zach Schwager presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Robert Lindgren, 737 S. 3rd St., Louisville, KY 40202
Todd Stengel, 1407 Hugh Ave., Louisville, KY 40213

Summary of testimony of those in favor:

01:13:00 Robert Lindgren spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:25:45 Todd Stengel spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 18VARIANCE1120

The following spoke in opposition of the request:

No one spoke.

01:27:40 Board Members' deliberation

01:33:17 On a motion by Vice Chair Young, seconded by Member Howard, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Variance from Land Development Code Section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of a lot:

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

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the Historic Landmarks and Preservation Commission staff has already approved the proposal, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the existing private yard area is already completely paved. Also, the applicant is proposing green space to the side of the primary structure, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the street is otherwise fully developed and there are similar site plans in the area, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the lot is regular in shape and comparable in area to other lots in the same vicinity, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may create an unnecessary hardship on the applicant by preventing them from constructing a detached garage, and

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1120 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of a lot (**Requirement 5,100 sq. ft., Request 0 sq. ft., Variance 5,100 sq. ft.**).

The vote was as follows:

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

Absent: Members Buttorff, and Leanhart

01:34:04 On a motion by Vice Chair Young, 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 5.4.1.E.3 to allow parking to be achieved from the primary street and not through the alley as required in the Traditional Neighborhood Form District:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver may violate specific guidelines of Cornerstone 2020 as Cornerstone 2020 states that revitalization and reinforcement of the Traditional Neighborhood Form will require particular emphasis on (a) preservation and renovation of existing buildings in stable neighborhoods (if the building design is consistent with the predominant building design in those neighborhoods), (b) the preservation of the existing grid pattern of streets and alleys, (c) preservation of public open spaces. The ability to access the garage via the street may reduce or minimize the residents' use of the alley to access the garage. Alley access is promoted and preferred in the traditional neighborhood form; now, therefore be it

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CASE NUMBER 18VARIANCE1120

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1120 does hereby **DENY** Waiver from Land Development Code Section 5.4.1.E.3 to allow parking to be achieved from the primary street and not through the alley as required in the Traditional Neighborhood Form District.

The vote was as follows:

Yes: Members Howard, Jagoe, and Vice Chair Young

No: Member Turner, and Chair Fishman

Absent: Members Buttorff, and Leanhart

01:35:18 Meeting was recessed.

01:35:47 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1119

Request: Variance to allow a private yard area to be less than the required 30% of the area of a lot
Project Name: Woodbourne Avenue Variance
Location: 2212 Woodbourne Avenue
Owner: Bob and Barb Fincher
Applicant: Anne Del Prince
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
Case Manager: Zach Schwager, Planner I

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

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

Agency Testimony:

01:35:56 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:

Bob Fincher, 2212 Woodbourne Ave., Louisville, KY 40205
Gant Jones, 2910 Darby Creek Dr., Crestwood, KY 40014

Summary of testimony of those in favor:

01:37:53 Bob Fincher spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:41:08 Gant Jones 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 neither for nor against the request:

Lucas Dixon, 2314 Carolina Ave., Louisville, KY 40205

Summary of testimony of those neither for nor against:

01:44:20 Lucas Dixon spoke neither for nor against the request. Mr. Dixon stated this is an applicant he is excited to welcome to the neighborhood. Mr. Dixon stated the issue he cares about is water run-off and the effect of the flooding in the park that surrounds the neighborhood (see recording for detailed presentation).

The following spoke in opposition of the request:

Joshua I. White, 2134 Woodbourne Ave., Louisville, KY 40205

Barbara Berman, 2127 Woodford Place, Louisville, KY 40205

Summary of testimony of those in opposition:

01:47:29 Joshua I. White spoke in opposition of the request and showed a Powerpoint presentation. Mr. White stated he is a Board Member for the neighborhood, but the Board has not met since the thirty day period started for the variance, so there is no Board opinion on it. Mr. White stated their neighborhood has been participating in trying to mitigate urban heat island effects for about five years. Mr. White stated one of the big problems with their neighborhood is that it has been getting worse and worse when it comes to storm water run-off. Mr. White discussed the flooding issues in the neighborhood (see recording for detailed presentation).

01:59:10 Barbara Berman spoke in opposition of the request. Ms. Berman stated her concerns are the same as Mr. Dixon and Mr. White. Ms. Berman responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

02:00:49 Bob Fincher spoke in rebuttal. Mr. Fincher stated he is very empathetic with their position. Mr. Fincher stated he shares those feelings to a great extent. Mr. Fincher stated there is literally not going to be a foot or a corner of that house that has not been addressed extensively from a sustainability and

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green point of view. Mr. Fincher discussed some of the features of the house. Mr. Fincher reviewed the area on the property where rainwater pillows are planned, and described how they will function. Mr. Fincher responded to questions from the Board Members (see recording for detailed presentation).

02:09:35 Gant Jones responded to a question from Member Howard regarding the size of the addition (see recording for detailed presentation).

02:10:41 Mr. Fincher responded to questions from the Board Members (see recording for detailed presentation).

02:11:14 Board Members' deliberation

02:16:33 On a motion by Vice Chair Young, seconded by Member Howard, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony heard today, and the applicant's justification, was adopted:

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

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the addition is on the rear of the existing residence and is not visible from public right-of-way, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the addition will be constructed to comply with building codes, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the majority of the required private yard area will still be intact, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the lot is similar in shape and size to other lots in the area, and

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WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because most of the private yard area will be intact, and

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1119 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of a lot (**Requirement 1,920 sq. ft., Request 1,320 sq. ft., Variance 600 sq. ft.**), **SUBJECT** to the following Condition of Approval:

Condition of Approval:

1. The applicant shall install rainwater catchment and management that is equal to or better than rainwater pillows, and the applicant shall also maintain rain barrels on the property.

The vote was as follows:

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

Absent: Members Buttorff, and Leanhart

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CASE NUMBER 18VARIANCE1118

Request:	Variance to allow a structure to exceed the required front and street side yard setbacks
Project Name:	Dixie Highway Variance
Location:	3620 Dixie Highway
Owner:	ML Destiny Plaza LLC
Applicant:	Brian Shirley, Arnold Consulting Engineering Services
Jurisdiction:	City of Shively
Council District:	3 – Keisha Dorsey
Case Manager:	Zach Schwager, Planner I

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

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

Agency Testimony:

02:18:18 Zach Schwager presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Brian Shirley, 1136 South Park Drive, Suite 200, Bowling Green, KY 42103

Summary of testimony of those in favor:

02:20:08 Brian Shirley spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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02:22:39 Board Members' deliberation

02:23:05 On a motion by Member Turner, seconded by Vice Chair Young, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony heard today, and the applicant's justification statement, was adopted:

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

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the setback is closer to the corner than nearby structures, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the structure will comply with building codes and will not create sight issues at the intersection, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed structure is closer to the corner than the one across Oehrle Drive and the parking is behind the building, which is more compatible with the form district guidelines, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the lot is regular in shape and of similar size to neighboring lots, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the proposed setbacks are similar to neighboring properties, and

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

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1118 does hereby **APPROVE** Variance from City of Shively Development Code Section 5.5.1.A.2 to allow a structure to exceed the required front and street side yard setbacks (**Front Yard Requirement 0 ft., Request 15.1 ft., Variance 15.1 ft.; Street Side Yard Requirement 0 ft., Request 7 ft., Variance 7 ft.**).

The vote was as follows:

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

Absent: Members Buttorff, and Leanhart

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CASE NUMBER 18CUP1113

Request:	Conditional Use Permit for Mini-Warehouse
Project Name:	Bardstown Road Mini-Warehouse
Location:	4401 Bardstown Road
Owner:	Salt River Investment LLC
Applicant:	Sterling Development LLC
Representative:	Dinsmore & Shohl LLP
Jurisdiction:	Louisville Metro
Council District:	2 – Barbara Shanklin
Case Manager:	Beth Jones, AICP, Planner II

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

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

Agency Testimony:

02:25:55 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones reviewed the addendum to the original staff report. Ms. Jones responded to questions from the Board Members (see staff report, staff report addendum, and recording for detailed presentation).

The following spoke in favor of the request:

Cliff Ashburner, 101 S. 5th Street, Suite 2500, Louisville, KY 40202

Summary of testimony of those in favor:

02:32:51 Cliff Ashburner spoke in favor of the request and reviewed the Powerpoint presentation presented to DRC. Mr. Ashburner provided a copy of Binding Element Number Nine, which was discussed by the Development Review Committee, to the Board Members. Mr. Ashburner reviewed the site

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plan. Mr. Ashburner responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

02:39:53 Board Members' deliberation

02:42:04 On a motion by Member Howard, seconded by Vice Chair Young, the following resolution, based upon the testimony heard today, was adopted:

Conditional Use Permit for mini-warehouses (LDC 4.2.35):

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

WHEREAS, the Board further finds that the proposed use is compatible with surrounding uses and with the general character of the area. The applicant's plan provides appropriate buffering with adjoining commercial properties and plantings in excess of requirements to increase compatibility with adjoining residential uses. The three-story structure is located along the Bardstown Road frontage, mitigating potential impact on residences, and the site frontage will meet all buffering, landscaping and lighting requirements, and

WHEREAS, the Board further finds that the proposed use is consistent with expectations for the site and does not substantially increase demands on public infrastructure and facilities. The proposal has received preliminary approval from MSD. Transportation Planning has declined to approve the proposal due to safety concerns which would result from the addition of an unnecessary direct access point to a Major Arterial and the site's inability to meet spacing requirements as established by LDC and AASHTO, 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

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Comprehensive Plan for all of Jefferson County, Kentucky, upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- 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. **Privacy fencing and building construction will provide buffering along the side property lines adjoining properties in commercial zones and/or uses. Buffering and landscaping along the front and rear property lines will meet or exceed requirements.**
- 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 as a landscape buffer area. **The applicant is requesting relief along the side property lines, both of which adjoin properties in commercial zones and/or uses. A screening fence and/or buildings will provide screening alongside property lines adjoining non-residential uses. Any plantings required in these areas will instead be located along the rear property line to provide additional buffering for residential uses.**
- 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. **The applicant has requested relief from this requirement along the west property line; a screening fence will screen the vehicle maneuvering area from the adjacent commercially-zoned 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 has requested relief from this requirement. The proposal includes a three-story building of approximately 39 ft. to be located along the property frontage on Bardstown Road.**
- H. Only one freestanding sign shall be allowed and shall conform to limits established for the form district in which the sign is located; now, therefore be it

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RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1113 does hereby **APPROVE** Conditional Use Permit for mini-warehouses (LDC 4.2.35), noting **RELIEF** from Items B, F, and G, **SUBJECT** to the following Conditions of Approval (the Board of Zoning Adjustment has reviewed Binding Element Number Nine):

Conditions of Approval:

1. All development shall be in accordance with the approved revised 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 BOZA and the Planning Commission or its representative.
2. The Conditional Use Permit shall be exercised as prescribed by KRS 100.237 within two years of BOZA approval. If it is not so exercised, the site shall not be used for mini-warehouses without further review and approval by the BOZA.
3. All LBA plantings which would be required along the east and west side property lines will be relocated to the rear buffer LBA where they will provide additional screening and buffering for the adjacent residential uses. All buffering and landscaping requirements will be met along the Bardstown Road frontage of the site as per LDC Chapter 10.

The vote was as follows:

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

Abstain: Member Jagoe

Absent: Members Buttorff, and Leanhart

02:45:04 On a motion by Member Howard, seconded by Vice Chair Young, the following resolution, based upon the Standard of Review and Staff Analysis on page 2 of the Staff Report Addendum, was adopted:

Waiver of requirement that all abutting non-residential uses shall provide for vehicular and pedestrian circulation between their sites, through parking lot or alley connections, hard surface walkways, and similar measures (LDC 5.9.2.A.1.b.ii):

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the DRC determined that a binding element is required to address cross-access issues with adjacent property owners, and

WHEREAS, the Board further finds that the DRC determined that a binding element is required to address specific requirements regarding connectivity and vehicular circulation, and

WHEREAS, the Board further finds that the DRC approved direct access for the subject site but determined that connectivity issues must be addressed through a binding element, and

WHEREAS, the Board further finds that the applicant is setting aside a portion of the site sufficient to accommodate a frontage street in the form of an easement, but specific details regarding its construction and its connection to adjoining properties have not been finalized as of the publication of this report; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1113 does hereby **APPROVE** Waiver of requirement that all abutting non-residential uses shall provide for vehicular and pedestrian circulation between their sites, through parking lot or alley connections, hard surface walkways, and similar measures (LDC 5.9.2.A.1.b.ii). **NOTE:** This Waiver is **TEMPORARILY APPROVED**, until such time that Binding Element Number Nine is in place.

The vote was as follows:

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

Abstain: Member Jagoe

Absent: Members Buttorff, and Leanhart

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CASE NUMBER 18CUP1128

Request:	Conditional Use Permit for short term rental of a dwelling unit not the primary residence of the host
Project Name:	Winter Avenue Term Rental
Location:	1414 Winter Avenue
Owner:	JSB LLC
Host/Applicant:	David Orange
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 5th Street.)

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

Agency testimony:

02:47:48 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 appeal:

David Orange, 1427 Texas Ave., Louisville, KY 40217
Jay Bowman, 2237 Lowell Ave., Louisville, KY 40205

Summary of testimony of those in favor:

02:52:16 David Orange spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:57:50 Jay Bowman spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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03:01:20 David Orange responded to questions from the Board Members (see recording for detailed presentation).

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

03:02:01 Board Members' deliberation

03:02:38 On a motion by Vice Chair Young, seconded by Member Howard, 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 is 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.

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- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **According to the applicant, the residence has five bedrooms; LDC regulations permit up to 14 guests.**
- D. The dwelling unit shall be a single-family residence, duplex or condominium. This provision shall not be waived or adjusted. **The dwelling unit is a single-family residence.**
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **The site has a 35 ft. frontage on Winter but parking is not permitted between 4:00 pm and 6:00pm. There is off-street parking for three vehicles off an alley at the rear of the site.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1128 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), **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

- 1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not

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registered with Develop Louisville and with the Revenue Commission within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.

2. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.
3. The applicant shall limit the number of vehicles under each rental contract to three (3).
4. The maximum number of guests permitted in the short term rental shall be the lesser of ten (10) or that permitted by the Louisville Metro Code of Ordinances.

The vote was as follows:

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

Absent: Members Buttorff, and Leanhart

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CASE NUMBER 18CUP1136

Request:	Conditional Use Permit for Boarding and Lodging Houses
Project Name:	E. St. Catherine Lodging House
Location:	622 E. St. Catherine
Owner:	Atlantic Real Estate Inc
Applicant:	Mike Craft
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Beth Jones, AICP, Planner II

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

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

Agency Testimony:

03:04:35 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:
Mike Craft, 622 E. St. Catherine St., Louisville, KY 40203

Summary of testimony of those in favor:

03:09:47 Mike Craft spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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

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03:12:39 Board Members' deliberation

03:14:48 On a motion by Vice Chair Young, 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 is consistent with the Comprehensive Plan in that it is a reuse of an existing structure and does not create significant additional burdens on public infrastructure, and

WHEREAS, the Board further finds that the proposal requires no exterior additions or significant alterations to the site or its existing structure, and

WHEREAS, the Board further finds that Public facilities are adequate to serve the site, and

WHEREAS, the Board further finds that:

Boarding and lodging houses may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8A districts upon the granting of a Conditional Use Permit and compliance with the following requirements.

- A. Boarding and lodging houses located in R-E, R-R, R-1, R-2, R-3, R-4 and R-5 single-family districts shall have a maximum of 3 boarders in addition to resident family members of the boarding and lodging house keeper. Those boarding and lodging houses located in other districts shall have a maximum of 8 boarders.
- B. All boarding and lodging houses shall comply with the administrative and maintenance requirements established in 902 KAR 20:350, only applicable when meals are served at the facility. **Meals are not served at the facility.**
- C. Boarding and lodging houses shall not have any signage which identifies the use.

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- D. Boarding and lodging houses shall be located on or near a collector or arterial street with reasonable access to public transportation. **The site is located along a minor arterial and a TARC route.**
- E. Sufficient on-site parking shall be provided as required by the Land Development Code. **Off-street parking is provided for residents. The property manager has access to an additional separate and secured off-street parking area. In addition, LDC standards credit the site with one on-street parking space. Transportation Planning has reviewed the site plan and issued preliminary approval.**
- F. All boarding and lodging houses shall comply with applicable building code and health department regulations.
- G. The Board of Zoning Adjustment shall take into account the location of other boarding and lodging houses, transitional housing, homeless shelters or rehabilitation homes in its analysis of Conditional Use Permit applications for boarding and lodging houses. **There are eleven such institutions within a ½ mile radius of the site.**
- H. The following information shall be for all boarding and lodging house Conditional Use Permit applications:
1. Type of resident population intended to be served, if any (e.g. veterans, a victim group, persons recovering from substance abuse (without on-site assistance services or supervision), college students, contract/seasonal workers, parolees (without on-site assistance or supervision), single persons, etc.); **The facility serves single persons.**
 2. Site plan and floor plans; **The applicant has provided sufficiently detailed site and floor plans.**
 3. Rules of conduct and business management plan; **The applicant has provided a copy of the House Rules for the facility.**
 4. Support services to be provided and projected staffing level, if any; **Support services are not provided.**
 5. Proposed maximum stay for each resident; **There is no maximum stay for residents.**

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6. Any other information the Board of Zoning Adjustment deems necessary to evaluate the application; No additional information is required at this time.
7. Any changes to the foregoing information submitted in connection with the Conditional Use Permit application shall require the Conditional Use Permit holder to apply for a modified Conditional Use Permit from the Board of Zoning Adjustment.
- I. The operator(s) of a boarding and lodging house shall maintain a registry of residents which shall document the terms of stay of each resident. This registry shall be made available for inspection by a Code Enforcement Officer in order to determine the total number of residents residing in the boarding and lodging house at a given time and whether or not a term of stay is temporary or permanent. However, under these provisions, the operator is not required to collect and/or maintain records that may be used for discriminatory purposes under the Fair Housing Acts, including but not limited to records relating to the race, religion, gender, national origin, family status and/or disability of any resident.
- J. Board of Zoning Adjustment shall, to the best of its ability, find that the establishment of the facility will not result in harm to the health, safety or general welfare of the surrounding neighborhood, and that substantial adverse impacts on adjoining properties or land uses will not result from the facilities' operations. The site has been operated as a lodging house for a significant period of time.
- K. The Board of Zoning Adjustment shall find that the facility is compatible with the character of the surrounding neighborhood. The facility is currently in operation and appears to meet this requirement.
- L. No boarding and lodging house shall operate until it has received a license pursuant to Louisville Metro Code of Ordinances Section 115 and, if required, a license from the Commonwealth of Kentucky pursuant to KRS 21B.
- M. Operation of a boarding and lodging house without the required license may constitute grounds for denial of a related Conditional Use Permit by the Board of Zoning Adjustment; now therefore be it

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RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1136 does hereby **APPROVE** Conditional Use Permit for Boarding and Lodging Houses (LDC 4.2.11), **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 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 Boarding or Lodging House without further review by and approval of the Board.
3. The applicant shall obtain license(s) as required per LDC 4.2.11.L. and shall submit verification to PDS staff no later than March 22, 2019. If such verification is not submitted, the CUP shall be revoked.

The vote was as follows:

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

Absent: Members Buttorff, and Leanhart

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PUBLIC HEARING

CASE NUMBER 18CUP1144

Request:	Conditional Use Permit for short term rental of two dwelling units not the primary residence of the host
Project Name:	E. Oak Short Term Rental
Location:	508 E. Oak Street
Owner/Applicant/Host:	502 Rentals LLC
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Beth Jones, AICP, Planner II

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

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

Agency Testimony:

03:16:34 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:

Luke Neubauer, 115 Waverly Ct., Louisville, KY 40206

Summary of testimony of those in favor:

03:19:04 Luke Neubauer 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 18CUP1144

03:22:23 Board Members' deliberation

03:25:16 On a motion by Member Howard, seconded by Member Jagoe, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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 create substantial additional requirements for the site, and

WHEREAS, the Board further finds that:

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

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

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- D. The dwelling unit shall be a single-family residence, duplex or condominium. This provision shall not be waived or adjusted. **LOJIC shows the site as a multi-family residence and the applicant has been granted non-conforming rights for a duplex.**
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **The property has a 35 ft. frontage on E. Oak Street; LDC standards credit it with one space. Paved off-street parking for three vehicles is available off an alley at the rear of the site. At the neighborhood meeting, the applicant stated that guests would be limited to two vehicles for each unit.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1144 does hereby **APPROVE** Conditional Use Permit to allow short term rental of dwelling units not the primary residence of the host (LDC 4.2.63), **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

- 1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not registered with Develop Louisville and with the Revenue Commission within

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60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.

2. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.
3. The maximum number of guests permitted in the short term rental shall be the lesser of eight (8) per unit or that permitted by the Louisville Metro Code of Ordinances.
4. The maximum number of guest parking shall be limited to two (2) vehicles per unit.

NOTE: Vice Chair Young left at approximately 4:30 p.m.

The vote was as follows:

Yes: Members Turner, Howard, Jagoe, and Chair Fishman

Absent: Members Buttorff, Leanhart, and Vice Chair Young

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PUBLIC HEARING

CASE NUMBER 18CUP1154

Request:	Conditional Use Permit for short term rental of a duplex not the primary residence of the host
Project Name:	Dolt Short Term Rental
Location:	1132 and 1134 Cherokee Road
Owner:	Dolt Capital, LLC
Applicant/Host:	Jonathan Klunk
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Jon E. Crumbie, Planning & Design Coordinator

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

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

Agency Testimony:

03:27:37 Jon Crumbie presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the appeal:

Jonathan Klunk, 1372 S. 6th Street, Louisville, KY 40208
Fred Dolt, 5912 Mt. Pleasant Road, Prospect, KY 40059

Summary of testimony of those in favor:

03:31:06 Jonathan Klunk spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

03:47:27 Fred Dolt responded to questions from the Board Members (see recording for detailed presentation).

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03:48:39 Board Members' deliberation

03:49:06 On a motion by Member Howard, seconded by Member Jagoe, 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 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:

Short Term Rental Term Rental of a dwelling unit that is not the primary residence of the host in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 or R-8A district and Short Term 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. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **The applicant states that the 1st floor dwelling unit has four bedrooms that will allow a maximum number of twelve guests and the 2nd floor has four bedrooms that will allow a maximum number of twelve guests.**
- C. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted.

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- D. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- E. Outdoor signage which identifies the short term rental is prohibited.
- F. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **Parking is located on site in a three car garage and two car parking pad at the rear of the property. Also, the proposal has credit for parking on the street.**
- G. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- H. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1154 does hereby **APPROVE** Conditional Use Permit to allow short term rental of dwelling units not the primary residence of the owner in an R-5B Zoning District and Traditional Neighborhood Form District, **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not registered with Develop Louisville and with the Revenue Commission within 60 days of the approval of the minutes of this case, then the Conditional Use Permit shall be deemed null and void.
2. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.
3. The maximum number of guests permitted in the short term rental shall be the lesser of twelve (12) guests per unit or that permitted by the Louisville Metro

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Code of Ordinances; however, the maximum number of guests for the building as a whole shall be limited to twenty (20) or that permitted by the Louisville Metro Code of Ordinances.

The vote was as follows:

Yes: Members Turner, Howard, Jagoe, and Chair Fishman

Absent: Members Buttorff, Leanhart, and Vice Chair Young

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PUBLIC HEARING

CASE NUMBER 18CUP1161

Request: Conditional Use Permit for a short term rental unit that is not the primary residence of the host in a R-5 District

Project Name: Short Term Rental

Location: 312 Chenoweth Lane

Owner: Louisville Home Buyers, LLC, Eric George

Applicant: Key Source Properties, Jonathan Klunk

Jurisdiction: Louisville Metro

Council District: 9—Bill Hollander

Case Manager: Steve Hendrix, Planning and Design Coordinator

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

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

Agency Testimony:

03:52:05 Steve Hendrix presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

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

Summary of testimony of those in favor:

03:55:18 Jonathan Klunk spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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03:58:23 Board Members' deliberation

03:58:35 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:

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

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

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

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **The applicant states that the residence has three bedrooms, that will allow a maximum number of ten guests, however, the applicant is limiting the number of guests to eight, (8).**

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- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted.
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated.
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1161 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in an R-5 Zoning District and Neighborhood Form District, **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

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

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3. The maximum number of guests permitted in the short term rental shall be the lesser of eight (8) per contract or that permitted by the Louisville Metro Code of Ordinances.

The vote was as follows:

Yes: Members Turner, Howard, Jagoe, and Chair Fishman

Absent: Members Buttorff, Leanhart, and Vice Chair Young

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BUSINESS SESSION

BOZA Bylaws


Request: Proposed By-law Amendments – for review
Case Manager: Chris French, AICP, Planning Supervisor

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

04:00:15 Discussion regarding amendments to Bylaws. The Board Members, by general consensus, **CONTINUED** this Agenda Item to the February 4, 2019 Board of Zoning Adjustment meeting.

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The meeting adjourned at approximately 5:17 p.m.


Chair


Secretary