

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

October 31, 2022

A meeting of the Louisville Metro Board of Zoning Adjustment was held on Monday, October 31, 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 (left at 3:40 p.m.)
Sharon Bond, Secretary
Yani Vozos
Kimberly Leanhart
Jan Horton

Members Absent:

Brandt Ford

Staff Members Present:

Brian Davis, Assistant Director, Planning & Design Services
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Heather Pollock, Planner I
Molly Clark, Planner II
Amy Brooks, Planner I
Laura Ferguson, Legal Counsel
Chris Cestaro, Management Assistant

The following cases were heard:

**BOARD OF ZONING ADJUSTMENT
MEETING MINUTES**

October 31, 2022

October 17, 2022 Board of Zoning Adjustment Meeting Minutes

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Minutes of the October 17, 2022 Board of Zoning Adjustment meeting.

The vote was as follows:

YES: Members Horton, Leanhart, Vozos, and Chair Howard.

ABSTAIN: Members Bond and Vice Chair Buttorff.

ABSENT: Member Ford.

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

Case No. 22-CUP-0240

Project Name: W. Oak Street Short Term Rental
Location: 520 W. Oak Street
Owner(s): D & A Properties 22, LLC
Applicant: Darien Barrera Ruiz
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:

00:06:05 Heather Pollock presented the case, showed a Power Point presentation, and responded to questions from the Board Members (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Leslie De La Torre (acting as translator), 333 Kilmory Avenue, Louisville, KY 40214

Darien Barrera Ruiz, 7417 Side Oak Drive, Crestwood, KY 40014

Leinier De La Torre, 13041 Bessels Boulevard, Louisville KY 40272

Jennifer Suarez Hernandez, 7417 Side Oaks Drive, Crestwood, KY 40014

Adolfo De La Torre, 333 Kilmory Avenue, Louisville, KY 40214

Summary of testimony of those in favor:

00:15:00 Darien Barrera Ruiz, the applicant, presented his case and explained why he wanted the opportunity to rent the property (see recording for detailed presentation.) He buys properties to renovate and sell.

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Case No. 22-CUP-0240

00:25:06 Mr. Ruiz responded to questions from the Board Members (see recording for detailed discussions.) Topic included; why Mr. Ruiz chose short-term rental over long term rental; the gravel parking lot, who will manage the property for short-term rental; the neighborhood; the Ruiz's live within about 10 miles of the site;

00:32:58 Leinier De La Torre spoke in support (see recording for detailed presentation.)

00:34:39 Jennifer Suarez Hernandez, spouse of the applicant, spoke in support (see recording for detailed presentation.)

00:36:18 Adolfo De La Torre, business partner of the applicant, spoke in support (see recording for detailed presentation.)

The following spoke in opposition of the request:

Courtney and Tom Blankenship, 1425 S. 3rd Street, Louisville, KY 40208

Summary of testimony of those in opposition:

00:39:31 Courtney Blankenship pointed out that there are eight short-term rentals within 600 feet of this property, and five or six of them are non-owner occupied. This is an almost 4,000 square foot home that would allow 14 people at a time to rent it. This is a non-owner-occupied hotel business in a residential, Traditional Neighborhood form district. She said the applicant lives in Crestwood, but they are 17-23 miles away, not 10. She showed photos of the back of the site that which she said shows trash and old yard waste piled up. She said the pre-application was filed 14 days before the house was put on the market, which she views as being done as a selling point to attract buyers, not as a legitimate business application. She said she does not believe the applicant will keep the property if they can sell it with the added attraction of a CUP on the property.

00:49:36 Tom Blankenship said he and his wife came from a neighborhood in Nashville that was all large Victorian homes, like Old Louisville, but they were pushed out because they became surrounded by five AirBnB businesses. He said he is concerned that there is a potential for this happening again if the neighborhood becomes "overrun" with short term rentals.

Rebuttal:

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Case No. 22-CUP-0240

00:52:22 Mr. Ruiz delivered rebuttal (see recording for detailed presentation.)

00:58:00 Board Members' deliberation

(approximately 01:00:00) On a motion by Member Leanhart, seconded by Member Buttorff, the following resolution, based on the evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that, within 600' of the subject property, there are 5 properties with an approved conditional use permit allowing short term rentals that are not the primary residence of the host; and within 600' there are also 3 properties with an approved conditional use permit that is the primary residence of the host and not subject to this standard; 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 a Traditional Neighborhood Zoning District and Traditional Neighborhood Form District.

The vote was as follows:

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

ABSENT: Member Ford.

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0108

Project Name: E Washington St Variance
Location: 1621 E Washington Street
Owner: Susan J Balliet
Applicant: Andrew Max Balliet
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:

01:04:53 Molly Clark presented the case, showed a Power Point presentation, and responded to questions from the Board Members (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Andrew Max Balliet, 1209 Rammers Avenue, Louisville, KY 40204

Summary of testimony of those in favor:

01:10:12 Andrew Max Balliet, the applicant, presented his case. There were no additional questions from the Board Members (see recording.)

The following spoke in opposition of the request:

No one spoke.

01:11:31 Board Members' deliberation

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0108

01:11:43 On a motion by Vice Chair Buttorff, seconded by Member Bond, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and 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, because the structure must be constructed to comply with all applicable building codes and the Land Development Code, except where relief is requested; and

WHEREAS, the Board further finds that the proposed storage structure will not alter the essential character of the general vicinity because the building materials will match the other existing storage structures and will be located along property lines adjacent to other industrial uses; and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the storage structure must be constructed to comply with all building codes; and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the proposed storage structure building materials will match the other storage structures on the site and will be located along a property line with another industrial use; and

WHEREAS, the Board further finds that the requested variance does arise from special circumstances which do not generally apply to surrounding properties as the subject property wraps around East Washington Street and most of the buildable land area is toward the rear of the site away from Frankfort Avenue; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the existing development and the vehicle access to the lot push development toward the rear property line; 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 since the applicant has not built the new structure and is requesting approval from the Board; now, therefore be it

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CASE NUMBER 22-VARIANCE-0108

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested **Variance** from the Land Development Code Table 5.2.2 to allow a proposed storage structure to encroach into the rear yard setback.

The vote was as follows:

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

ABSENT: Member Ford.

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0114

Project Name: Front Yard Addition
Location: 4416 Lynnview Drive
Owner/Applicant: Barbara Williams
Jurisdiction: Louisville Metro
Council District: 1- Angela Bowens
Case Manager: Amy Brooks, 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:

01:13:03 Amy Brooks presented the case, showed a Power Point presentation, and responded to questions from the Board Members (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Barbara Williams, 4416 Lynnview Drive, Louisville, KY 40216-3412

Summary of testimony of those in favor:

01:17:30 Barbara Williams, the applicant, presented her 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.

01:27:46 Board Members' deliberation

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0114

01:28:05 On a motion by member Bond, seconded by Member Leanhart, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, 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, because the structure must be constructed to comply with all applicable building codes and the Land Development Code, except where relief is requested; and

WHEREAS, the Board further finds that the structure will not alter the essential character of the general vicinity as it will be built with material that is in character with the surrounding residential neighborhood. In addition, other primary structures located south of said property are not setback as far from Lynnview Drive as the subject property. Therefore, the addition will not alter the overall visual appearance of this neighborhood; and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes; and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the infill regulations require the setback to be greater than the form district requirement of 15 ft; and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do generally apply to the land in the generally vicinity or the same zone as the lot is similar in size and shape to the surrounding properties; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant; 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 does hereby **APPROVE** the requested **Variance** from the Land Development Code Table 5.1.12 B to allow a primary structure to encroach into the front yard setback.

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0114

The vote was as follows:

YES: Members Horton, Bond, Leanhart, Vozos, and Chair Howard.

NO: Vice Chair Buttorff.

ABSENT: Member Ford.

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0125

Project Name: 112 N. Galt Ave Variance
Location: 112 N. Galt Avenue
Owner/Applicant: Charles Davis Murphy
Jurisdiction: Louisville Metro
Council District: 9- Bill Hollander
Case Manager: Amy Brooks, 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:

01:29:02 Amy Brooks presented the case, showed a Power Point presentation, and responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Charles Murphy, 1130 Fisher Avenue, Louisville, KY 40204

Summary of testimony of those in favor:

01:33:42 Charles Murphy, the applicant, presented his case and responded to questions from the Board members (see recording for detailed presentation.)

01:37:19 In response to questions about an alley closure, Mr. Murphy said it had been brought to his attention that there is a “non-functional”, unimproved alley at the back of their property (unpaved, no easements, etc.) He said he understood that granting this variance would not interfere with the alley closure process (see recording for detailed conversation.)

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PUBLIC HEARING

CASE NUMBER 22-VARIANCE-0125

The following spoke in opposition to the request:

No one spoke.

01:39:52 Board Members' deliberation

01:40:13 On a motion by Member Vozos, seconded by Member Horton, the following resolution, based on the Standard of Review and Staff Analysis and evidence and 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, because the structure must be constructed to comply with all applicable building codes and the Land Development Code, except where relief is requested. Staff was concerned that the variance could adversely affect the adjacent property owner because construction and maintenance of the structure may require encroachment onto the adjacent property along the north side yard. ***Regarding Standard A, the applicant has indicated that they have permission from the adjacent property owners to do the job as stated.***
And:

WHEREAS, the Board further finds that the structure will not alter the essential character of the general vicinity as it will be built with material that is in character with the surrounding residential neighborhood. In addition, there are other primary structures on Galt Avenue that encroach into the side yard setback; and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the structure must be constructed to comply with all building codes; and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the location of the proposed structure is similar to others in the neighborhood; and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do generally apply to the land in the generally vicinity or the same zone as the lot is similar in size and shape to the surrounding properties; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the existing house is within one foot of the property line; and

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CASE NUMBER 22-VARIANCE-0125

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 does hereby **APPROVE** the requested **Variance** from the Land Development Code Table 5.2.2 to allow a primary structure to encroach into the side yard setback.

The vote was as follows:

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

ABSENT: Member Ford.

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PUBLIC HEARING

CASE NUMBER 22-CUP-0175

Project Name: Glenmary Club
Location: 10200 Glenmary Farm Drive
Owner(s): AL CAT LLC/Valley Station Towne Center LLC
Applicant: Chris Thieneman
Representative: Dentons Bingham Greenebaum LLP
Jurisdiction: Louisville Metro
Council District: 22 – Robin Engel
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:

01:41:34 Chris French stated that, late Friday, additional information was received which the Board may choose to accept or not accept. Laura Ferguson, legal counsel for the Board of Zoning Adjustment, explained that she has reviewed the document, which contains exhibits (some of which contain legal arguments) as well as a noise study. She and Chair Howard reviewed the Board's options (see recording for detailed discussion.)

Speakers:

The following signed up to speak in favor of the request:

Jeff McKenzie, Dentons Bingham Greenebaum, 101 S 5th St, Louisville, KY 40202

Chris Thieneman, 2606 Alia Circle, Louisville, KY 40220

Derek Triplett, Land Design & Development, 503 Washburn Avenue Suite 101, Louisville, KY 40222 (signed in but did not speak)

The following signed up to speak in opposition to the request:

Don Cox, Lynch, Cox, Gilman & Goodman, P.S.C., 500 West Jefferson Street, Louisville, KY 40202

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CASE NUMBER 22-CUP-0175

01:44:36 Jeff McKenzie, the applicant's representative, said he did not receive this information until this morning. He said the applicant has met all of the notice requirements and does not agree that this case should be further delayed (see recording for detailed presentation.)

01:46:49 Don Cox, the opposition's representative, said that the president of the Glenmary Homeowner's Association is present and will testify the Association did not hear anything about this meeting until Friday (see recording for detailed discussion.)

01:49:47 In response to questions from Chair Howard, Mr. French explained that neighborhood associations only get notified through the GovDelivery email system if they have registered through their Council District to receive such notifications. Otherwise, notices are sent via Post mail and via the Gov Delivery system to first and second tier property owners, and "Current Resident" to residents of rental properties (see recording for detailed discussion.)

01:50:09 Mr. Cox and Mr. McKenzie argued for why, or why not, the case should be heard today.

01:52:34 Board Members' deliberated whether or not to proceed with hearing the case today, or continue the case to the November 7, 2022 Board of Zoning Adjustment meeting.

01:54:35 On a motion by Member Vozos, seconded by Member Horton, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** this case to the November 7, 2022 Board of Zoning Adjustment meeting so the Board Members can review the new information that was sent to them. No information received after November 3rd at 5:00 p.m. will be accepted.

The vote was as follows:

YES: Members Horton, Bond, and Vozos,

NO: Member Leanhart, Vice Chair Buttorff, and Chair Howard.

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CASE NUMBER 22-CUP-0175

ABSENT: Member Ford.

The vote was tied.

01:56:51 Further Board Member discussion.

02:00:26 Vice Chair Buttorff said he wanted to change his vote from No to Yes.

02:01:29 Chris Thieneman, the applicant, said he watched Planning & Design staff erect the notification sign on the property. He said Homeowner's Association members discussed the meeting on social media and urged residents to be there.

Since Vice Chair Buttorff changed his vote, this case will be **CONTINUED to the November 7, 2022 Board of Zoning Adjustment meeting.**

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PUBLIC HEARING

CASE NUMBER 22-CUP-0242

Project Name: Wiltshire Avenue Short Term Rental
Location: 104 Wiltshire Avenue
Owner(s): LMBP Development, LLC
Applicant: Ray Berry
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:

02:02:38 Chris French presented the case, showed a Power Point presentation, and responded to questions from the Board Members (see staff report and recording for detailed presentation). He said that, since this project is under re-development, the applicant will need relief from the 30-day requirement. Staff recommended 90 days to allow the applicant to register, instead of 30. This has been noted in the staff report.

02:05:34 In response to questions from Board Member Bond, Mr. French said the structure is not currently a duplex, but will be after renovations are completed. There were originally three units.

The following spoke in favor of the request:

Raymond and Holly Berry, 210 Heady Avenue, Louisville, KY 40207

Summary of testimony of those in favor:

02:06:05 Raymond Berry, the applicant, presented his case and responded to questions from the Board Members (see recording for detailed presentation.)

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CASE NUMBER 22-CUP-0242

02:11:00 Holly Berry, the applicant's daughter, spoke in support (see recording for detailed presentation.)

The following spoke in opposition to the request:

No one spoke.

02:12:46 Board Members' deliberation.

02:13:46 On a motion by Member Bond, seconded by Vice Chair Buttorff, the following resolution, based on the Standard of Review and Staff Analysis and evidence and 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:

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:

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- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental. ***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. ***The subject property is smaller than two acres. The applicant states that unit 1 will have 5 bedrooms that allows up to 12 guest. Unit 2 will have 1 bedroom that allows up to 4 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.***

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- 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 the driveway can accommodate up to 5 vehicles plus 1 vehicle within the attached garage.**
- 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 property is currently being renovated to a duplex. Staff has spoken to the applicant and the applicant has requested relief to this requirement to allow them additional time to register. The applicant is asking for 75 days. Staff recommends 90 days.***
- 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.***

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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 units that are not the primary residence of the host in a R-7 multi-family residential zoning district and Neighborhood Form District, **SUBJECT** to the following Conditions of Approval:

Conditions of Approval

1. The conditional use permit for this short term rental approval shall allow up to 5 bedrooms (with a maximum of 12 guests at any one time) in unit 1 and 1 bedroom (with a maximum of 4 guests at any one time) in unit 2. 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.
2. The owner shall submit a short term rental registration application within 90 days of the approval of this conditional use permit. Failure to submit the application within this timeframe shall render the conditional use permit null and void.

The vote was as follows:

YES: Members Horton, Bond, Vozos, Vice Chair Buttorff, and Chair Howard.
NO: Member Leanhart.
ABSENT: Member Ford.

BOARD OF ZONING ADJUSTMENT MINUTES
October 31, 2022

PUBLIC HEARING

CASE NUMBER 22-CUP-0244

Project Name: Park Avenue Short Term Rental
Location: 616 Park Avenue
Owner(s): Camilla Aubrey
Applicant: Camilla Aubrey
Jurisdiction: Louisville Metro
Council District: 6 – David James
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:

02:15:01 Chris French presented the case, showed a Power Point presentation, and responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Crawford Aubrey, 618 Park Avenue, Louisville, KY 40208

Summary of testimony of those in favor:

02:18:47 Crawford Aubrey, the applicant, presented his case and responded to questions from the Board Members. Joe Haberman, Planning & Design Manager, also answered some questions from the Board members regarding how the 600-foot rule applies to this situation. Laura Ferguson, legal counsel for the Board of Zoning Adjustment, also discussed how the 600-foot rule functions because the main house and the associated carriage house are technically on two separate lots (see recording for detailed presentation and discussion.)

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The following spoke in opposition to the request:

No one spoke.

02:31:41 Board Members' deliberation

02:32:45 On a motion by Member Leanhart, seconded by Member Bond, the following resolution, based on the Standard of Review and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that, as of the date of the staff report, within 600' of the subject property, there are 3 properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host. Two other properties (19CUP1052 and 20-CUP-0046) are shown on the map; however, these cases are restricted to owner occupied CUPs by conditions of approval and do not count against the 600-foot requirement. The Board finds that the applicant's justification for relief from the 600 foot requirement is insufficient to grant relief.

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 TNZD and Traditional Neighborhood Form District.

The vote was as follows:

YES: Members Horton, Bond, Leanhart, and Vice Chair Buttorff.

NO: Member Vozos and Chair Howard.

ABSENT: Member Ford.

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CASE NUMBER 22-CUP-0257

NOTE: Vice Chair Buttorff left the meeting at 3:40 p.m. and did not hear or vote on this case.

| | |
|----------------------|---|
| Project Name: | Oregon Avenue Short Term Rental |
| Location: | 2309 Oregon Avenue |
| Owner/Applicant: | Deborah Gordon |
| Jurisdiction: | Louisville Metro |
| Council District: | 3 – Keisha Dorsey |
| 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:

02:34:34 Chris French presented the case, showed a Power Point presentation, and answered questions from the Board Members (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Deborah Gordon, 2308 Oregon Avenue Louisville, KY 40210-2136

Summary of testimony of those in favor:

02:38:21 Deborah Gordon, the applicant, said she lives directly across the street from the subject site. She presented her case and responded to questions from the Board members (see recording for detailed presentation and discussion.)

02:44:01 Regarding the people in opposition who signed in but were not present to speak, Ms. Gordon said two of them spoke to her before they had to leave the meeting.

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CASE NUMBER 22-CUP-0257

She said they live several blocks away from the property. She said they talked about shootings on Algonquin Parkway (see recording for detailed discussion.)

The following spoke in opposition of the request:

Joyce and Deborah Belt, 1817 Dixdale Avenue, Louisville, KY 40210 (signed up but was not present to speak)

Abdulaziz Sheikitiikar, 2301 Dixdale Avenue, Louisville, KY 40210 (signed in but was not present to speak)

02:45:39 Board Members' deliberation

02:45:58 On a motion by Member Vozos, seconded by Member Horton, 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:the proposal complies with the specific standards required to obtain the requested conditional use permit because:

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:

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- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental. ***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. ***The subject property is smaller than two acres. 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.***

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- 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. **4 spaces on the driveway. There appears to be available on- street 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

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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 a dwelling unit that is not the primary residence of the host in an R-5 zoning district and Traditional Neighborhood Form District, **SUBJECT** to the following Condition of Approval:

Condition of Approval

1. The conditional use permit for this short term rental approval shall allow 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 Horton, Bond, Leanhart, Vozos, and Howard.
ABSENT: Member Ford and Vice Chair Buttorff.

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The meeting adjourned at approximately 3:53 p.m.

Chair

Secretary