

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

October 18, 2021

A meeting of the Louisville Metro Board of Zoning Adjustment was held on October 18, 2021 at 1:00 p.m. online via Cisco Webex Video Teleconferencing.

Members Present:

Lula Howard, Chair
Richard Buttorff, Vice Chair
Sharon Bond, Secretary
Kimberly Leanhart
Yani Vozos
Brandt Ford

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Reverman, Planning & Design Assistant Director
Joe Haberman, Planning & Design Manager
Brian Davis, Planning & Design Manager
Chris French, Planning & Design Supervisor
Jon Crumby, Planning & Design Coordinator
Beth Jones, Planner II
Zach Schwager, Planner I
Heather Pollock, Planner I
Jay Lockett, Planner I
Tara Sorrels, Associate Planner
Priscilla Bowman, Associate Planner
Laura Ferguson, Legal Counsel

Minutes Prepared By:

Sue Reid, Management Assistant

On the recommendation of the Louisville Metro Department of Public Health & Wellness regarding congregate events and social distancing, and as permitted by Commonwealth of Kentucky Senate Bill 150, the October 18, 2021 Board of Zoning Adjustment meeting was held online.

The following cases were heard:

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OCTOBER 4, 2021 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:00:10 Prior to approval of minutes, Chair Howard welcomed new Board Member, Brandt Ford (see recording for detailed presentation).

00:08:23 On a motion by Member Leanhart, seconded by Vice Chair Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the October 4, 2021 Board of Zoning Adjustment online meeting, with one correction as noted by Chair Howard.

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

21-VARIANCE-0126

Request: Variance to allow a private yard area to be less than the required 30% of the lot area
Project Name: Varble Avenue Variance
Location: 4628 Varble Avenue
Owner/Applicant: Dave Deal
Jurisdiction: Louisville Metro
Council District: 5 – Donna Purvis
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:

00:09:58 Heather Pollock presented the case and showed a Powerpoint presentation. Ms. Pollock responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Dave Deal, 4628 Varble Ave., Louisville, KY 40211

Summary of testimony of those in favor:

00:16:57 Dave Deal 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.

00:23:36 Board Members' deliberation

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PUBLIC HEARING

21-VARIANCE-0126

00:24:13 On a motion by Member Bond, seconded by Member Vozos, 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, because the structure must be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the proposed addition will not alter the essential character of the general vicinity as it is going to be built with material that will be in character with the existing residence and surrounding residential 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 proposed garage will be built on the existing slab of a previous garage and the remaining space is nonconforming as it is paved and used for vehicle maneuvering and parking and access for the existing driveway; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0126 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 the lot (**Private Yard Area Requirement 2,086.5 sq. ft., Request 0 sq. ft., Variance 2,086.5 sq. ft.**).

The vote was as follows:

Yes: Members Bond, Leanhart, Vozos, Vice Chair Buttorff, and Chair Howard
Abstain: Member Ford

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0128

Request: Variance to allow a private yard area to be less than the required 30% of the lot area
Project Name: Castlewood Avenue Variance
Location: 1421 Castlewood Avenue
Owner/Applicant: Kelley Levine
Jurisdiction: Louisville Metro
Council District: 8– Cassie Chambers Armstrong
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:

00:27:38 Heather Pollock presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Adam Brickler, 1421 Castlewood Ave., Louisville, KY 40204

Summary of testimony of those in favor:

00:31:41 Adam Brickler spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

00:35:05 Board Members' deliberation

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0128

00:35:25 On a motion by Member Vozos, seconded by Vice Chair Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

WHEREAS, the Board further finds that the proposed addition will not alter the essential character of the general vicinity as it is going to be built with material that will be in character with the existing residence and surrounding residential 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 location of the home in relation to the rear property line in addition to the minimum dimension requirements, keep this property from having adequate space for the private yard area requirement. There is additional open space that cannot be included in the calculation. If this area could be counted toward the private yard, then a variance would not be required; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0128 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 the lot (**Private Yard Area Requirement 3,086.66 sq. ft., Request 964 sq. ft., Variance 2,122.66 sq. ft.**).

The vote was as follows:

Yes: Members Bond, Leanhart, Vozos, Vice Chair Buttorff, and Chair Howard
Abstain: Member Ford

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CASE NUMBER 21-VARIANCE-0139

Request: Variance to allow a detached garage to encroach into the required street side yard setback
Project Name: Churchill Road Variance
Location: 4300 Churchill Road
Owner: Joseph & Amy Wheeler
Applicant: Joe Wheeler
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:

00:38:00 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:

Joe Wheeler, 4300 Churchill Rd., Louisville, KY 40207

Summary of testimony of those in favor:

00:42:00 Joe Wheeler 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.

00:47:40 Board Members' deliberation

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0139

00:48:16 On a motion by Vice Chair Buttorff, seconded by Member Vozos, the following resolution, based upon the Standard of Review and Staff Analysis, the owner's justification, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the proposed garage will have the same street side setback as the original garage, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the garage will have the same street side setback as the original garage and will be consistent with other garages in the area, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the setbacks of the existing garage are not changing, which have caused no known hazard or nuisance, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the current setback is an existing condition which is proposed to be maintained, and

WHEREAS, the Board further finds that the owner's justification statements adequately justify the requested variance; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0139 does hereby **APPROVE** Variance from City of St. Matthews Development Code Section 4.7.C.2.c to allow a detached garage to encroach into the required street side yard setback (**Street Side Yard Requirement 25 ft., Request 5.1 ft., Variance 19.9 ft.**).

The vote was as follows:

Yes: Members Bond, Leanhart, Vozos, Vice Chair Buttorff, and Chair Howard
Abstain: Member Ford

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PUBLIC HEARING

CASE NUMBER 21-MCUP-0004

Request: Modified conditional use permit and modified variance for contractor shop
Project Name: 4819 Poplar Level Road
Location: 4819 Poplar Level Road
Owner: M&C Rentals
Representative: Weber Group/Land Design & Development, Inc.
Jurisdiction: Louisville Metro
Council District: 10 – Pat Mulvihill
Case Manager: Joel Dock, AICP, Planning Coordinator

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

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

Agency testimony:

00:50:56 Joel Dock presented the case and showed a Powerpoint presentation. Mr. Dock responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Ted Bernstein, 503 Washburn Ave., Louisville, KY 40222

Summary of testimony of those in favor:

00:57:12 Ted Bernstein spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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01:02:08 Board Members' deliberation

01:03:54 On a motion by Member Leanhart, seconded by Member Vozos, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Modified Conditional Use Permit for contractor's yard (LDC 4.2.51):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal remains consistent with Plan 2040 and the approvals granted for the change in zoning in case 17ZONE1000. The area contains a mixture of intensities and densities, along with accessibility to public transit and transportation infrastructure. No hazards or nuisances are expected as a result of the proposed modification and all outdoor storage will be contained away from the public roadway and environmentally sensitive features, and

WHEREAS, the Board further finds that the proposal is consistent with surrounding land uses and the general character of the area as the property is in an area of mixed commercial and industrial uses that intensifies gradually moving north along Poplar level Road from the subject site, and

WHEREAS, the Board further finds that preliminary approvals have been received by the Metropolitan Sewer District and Transportation Planning. No objections from agency reviewers have been expressed, and

WHEREAS, the Board further finds that:

Storage Yard and Contractor's Yard may be allowed in the C-2, M-1 and C-M Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements, except that a C.U.P. shall not be permitted within the Traditional Neighborhood and Traditional Marketplace Corridor Form Districts.

- A. Outdoor storage areas prohibited within form district transition zone (relief granted – 17ZOPNE1000)
- B. Stacked materials and equipment shall not exceed a height of five feet.
- C. Outdoor storage areas shall be screened from adjacent streets and properties.
- D. Storage of combustible materials shall conform to the requirements of NFPA Pamphlet 30 (information on NFPA pamphlet 30 may be obtained from local fire department).

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The proposal complies with the standards contained in LDC 4.2.51, with the exception of the item 'A' from which relief was granted. The rear two-hundred feet of the subject site is located within a form district transition zone. The properties to the rear are used for religious grounds and not single-family residential uses. Outdoor storage will be secured from the public; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-MCUP-0004 does hereby **APPROVE** Modified Conditional Use Permit for contractor's yard (LDC 4.2.51), **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 and all applicable Binding Elements). No further development shall occur on the site without prior review and approval by the Board or the Planning Commission.
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 contractor's yard until further review and approval by the Board.

The vote was as follows:

Yes: Members Bond, Leanhart, Vozos, Vice Chair Buttorff, and Chair Howard
Abstain: Member Ford

01:06:41 On a motion by Member Leanhart, seconded by Member Vozos, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Modified Variance from Land Development Code Section 5.3.2 to increase the encroachment upon the 25' setback from the last approved dimension of 10' from the property line to 5' from the property line:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect public health safety or welfare as the variance is being requested as a result of the existing zoning district of the abutting property. The use of

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the property is not single-family residential and would not appear to be developed for single-family residential uses in the future; and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the area is primarily mixed commercial and industrial uses. The width of the lot constrains the usable space of the lot and the proposed development is consistent with the pattern of development along the Poplar level road corridor, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the abutting property, while zoned residentially, is not being used for residential purposes and would not appear to be used for residentially purposes in the future. The encroachment does not restrict the movement of people within the community and provides for the safe movement of people within the development, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the setback is required when abutting residential zoning district but would not otherwise be required if the property was zoned for non-residential uses. The property is not used residentially; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-MCUP-0004 (21-MVARIANCE-0003) does hereby **APPROVE** Modification of Variance from Land Development Code Section 5.3.2 to increase the encroachment upon the 25' setback from the last approved dimension of 10' from the property line to 5' from the property line.

The vote was as follows:

Yes: Members Bond, Leanhart, Vozos, Vice Chair Buttorff, and Chair Howard
Abstain: Member Ford

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PUBLIC HEARING

CASE NUMBER 21-CUP-0109

Request: Conditional use permit to allow a community service facility in a single-family zoning district
Project Name: OVEC – St. Ignatius
Location: 1816 Rangeland Road
Owner: Roman Catholic Bishop of Louisville
Applicant: Jason Adkins – Ohio Valley Educational Cooperative
Jurisdiction: Louisville Metro
Council District: 2 – Barbara Shanklin
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:

01:09:45 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 follow spoke in favor of the request:

Jason Adkins, 100 Alpine Rd., Shelbyville, KY 40065
Derek Triplett, 503 Washburn Ave., Suite 101, Louisville, KY 40222

Summary of testimony of those in favor:

01:14:01 Jason Adkins was sworn in. Derek Triplett was sworn in and spoke in favor of the request. Mr. Triplett showed a Powerpoint presentation (see recording for detailed presentation).

01:19:35 Jason Adkins spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

01:25:23 Board Members' deliberation

01:26:33 On a motion by Member Bond, seconded by Vice Chair Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal 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 includes an addition to the existing structure, which is consistent with the existing structure and the general character of the area, and

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

WHEREAS, the Board further finds that:

Community Service Facility may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, UN, R-5A, R- 5B, R-6, R-7, R-8A, M-1, M-2, M-3, W-1, W-2, W-3, TNZD (Neighborhood General) districts upon the granting of a conditional use permit and compliance with the listed requirements.

A. General Standards – All Zoning Districts

1. Parking spaces shall be determined by the board of zoning based on the number of employees and the potential number of visitors to the site as described by the applicant in a parking study of similar uses. **Transportation Planning has reviewed the plan and determined the existing parking is adequate to serve the proposed use.**
2. Signage for community service facility shall be in accordance with chapter 8 of the LDC for nonresidential uses. **General note #2 on the site plan states there shall be no commercial signs in the right-of- way. Any proposed signage will be in accordance with chapter 8 of the LDC.**

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3. All applicable land development code requirements including but not limited to floor area ratio, building setback, landscape buffers and building heights shall be maintained. **The proposed plan meets all applicable LDC requirements.**
4. Conversion of Existing Structures: A report from the applicable fire official shall be provided to the Board outlining the necessary steps for compliance with fire code safety standards prior to establishing occupancy of the structure for the proposed use. **The applicant has not gone through the change of occupancy process. They are aware of the need for the change of occupancy and any other building permits needed for interior work.**

B. Conditional Use Standards – Single Family Zoning Districts Only:

1. Signs - There shall be allowed one non-illuminated sign identifying the name and use, which sign shall be limited in size to four square feet and be placed on the building. **The applicant is not proposing any new signage.**
2. Residential Structure - The structure shall remain or shall be constructed so that the exterior design and ornamentation is residential in character and compatible with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential. **The existing structures on site are the church and associated buildings, which are not residential in character. The structure that is proposed to be used as the community service facility will have the same design as the existing structure.**
3. Alterations or Improvements to the Structure - Where such a use is permitted in a structure which has been used as a residence, the permittee shall make no substantial alterations or improvements to the structure which would impair the structure's use as a residence at a later time. **The structure that is proposed to be used as the community service facility has not been used as a residence.**
4. Off-street parking not located within a drive-way shall be located to the side or rear of the building(s). **The existing off-street parking is in the front, to the side, and to the rear of the existing structures. The applicant needs relief from this standard;** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0109 does hereby **APPROVE** Conditional Use Permit for a Community Service Facility (LDC 4.2.54), with **RELIEF** from Standard B4 to allow parking to remain in the

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front of the property as well as the side, and new parking at the rear of the property, and **SUBJECT** to the following Conditions of Approval.

Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan, including all notes thereon. No further development shall occur on the site without prior review 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 as a community service facility without further review by and approval of the Board.
3. Prior to lawful commencement of the community service facility use the applicant shall obtain all permits and necessary approvals required by the Office of Construction Review and other governmental agencies.

The vote was as follows:

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

Abstain: Member Ford

01:28:48 Meeting was recessed.

Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 21-CUP-0110

Request: Conditional use permit to allow a community service facility in a single-family zoning district
Project Name: OVEC – St. Ignatius
Location: 1000 East Burnett Avenue
Owner: Roman Catholic Bishop of Louisville
Applicant: Jason Adkins – Ohio Valley Educational Cooperative
Jurisdiction: Louisville Metro
Council District: 10 – Pat Mulvihill
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.

NOTE: Technical difficulties were experienced when the 10/18/21 Board of Zoning Adjustment meeting reconvened after the break. Therefore, no audio/video is available for this case. Listed below is a summary of the case.

Agency testimony:

Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie stated the applicant is proposing a Head Start program to be located at the St. Elizabeth of Hungary Catholic Church. Mr. Crumbie's presentation included case summary and background information, the site location map, the Zoning/Form Districts, Aerial Photo, the Site Plan, and various photographs of the site and surrounding area. Mr. Crumbie reviewed the Staff Findings and the Conditions of Approval.

The following spoke in favor of the request:

Jason Adkins, 100 Alpine Rd., Shelbyville, KY 40065
Derek Triplett, 503 Washburn Ave., Suite 101, Louisville, KY 40222

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Summary of testimony of those in favor:

Jason Adkins and Derek Triplett spoke in favor of the request. Mr. Triplett showed a Powerpoint presentation and reviewed the daily operations of the Head Start program.

The following spoke in opposition of the request:

No one spoke.

Board Members' deliberation

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

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

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

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

WHEREAS, the Board further finds that:

4.2.54. Community Service Facility may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, UN, R-5A, R-5B, R-6, R-7, R-8A, M-1, M-2, M-3, W-1, W-2, W-3, TNZD (Neighborhood General) districts upon the granting of a conditional use permit and compliance with the listed requirements.

A. General Standards – All Zoning Districts

1. Parking spaces shall be determined by the board of zoning based on the number of employees and the potential number of visitors to the site as described by the applicant in a parking study of similar uses. **Staff does not know the number of employees and/or visitors to the site, but there is an existing parking lot in front of the structure.**

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2. Signage for community service facility shall be in accordance with chapter 8 of the LDC for nonresidential uses. **Signage will be Land Development Code compliant.**
 3. All applicable land development code requirements including but not limited to floor area ratio, building setback, landscape buffers and building heights shall be maintained. **The community service facility will be located in an existing structure that will not be changed or modified except to add an elevator tower.**
 4. Conversion of Existing Structures: A report from the applicable fire official shall be provided to the Board outlining the necessary steps for compliance with fire code safety standards prior to establishing occupancy of the structure for the proposed use. **The community service facility will need to have the applicable fire code official's approval before occupancy.**
- B. Conditional Use Standards – Single Family Zoning Districts Only:
1. Signs - There shall be allowed one non-illuminated sign identifying the name and use, which sign shall be limited in size to four square feet and be placed on the building. **Signage will be Land Development Code compliant.**
 2. Residential Structure - The structure shall remain or shall be constructed so that the exterior design and ornamentation is residential in character and compatible with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential. **The structure is not residential.**
 3. Alterations or Improvements to the Structure - Where such a use is permitted in a structure which has been used as a residence, the permittee shall make no substantial alterations or improvements to the structure which would impair the structure's use as a residence at a later time. **The structure is not residential.**
 4. Off-street parking not located within a drive-way shall be located to the side or rear of the building(s).
The off-street parking will be located in front of the existing structure; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0110 does hereby **APPROVE** Conditional Use Permit to allow a community service facility, with **RELIEF** from Standard B4 to allow parking to remain in front of the existing structure, and **SUBJECT** to the following Conditions of Approval.

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Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a community service facility without further review and approval by the Board.
3. Prior to lawful commencement of the community service facility use the applicant shall obtain all permits and necessary approvals required by the Office of Construction Review and other governmental agencies.

The vote was as follows:

Yes: Members Bond, Leanhart, Vozos, Vice Chair Buttorff, and Chair Howard
Abstain: Member Ford

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PUBLIC HEARING

CASE NUMBER 21-CUP-0139

Request: Conditional use permit to allow a transitional house in a multi-family zoning district and a waiver to not provide the landscape buffer areas

Project Name: Flip the Script

Location: 432 S. 16th Street

Owner: leesha Watts

Applicant: Duane Nathaniel

Jurisdiction: Louisville Metro

Council District: 4 – Jecorey Arthur

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.

NOTE: Technical difficulties were experienced when the 10/18/21 Board of Zoning Adjustment meeting reconvened after the break. Therefore, no audio/video is available for the Agency testimony of this case. Listed below is a summary of the case.

Agency testimony:

Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager stated the request is for a Conditional Use Permit to allow a transitional home in the R-6 Residential Multi-Family Zoning District (LDC 4.2.55) and a Landscape Waiver to not provide the perimeter landscape buffer areas. Mr. Schwager's presentation included case summary and background information, the Site location map, Aerial Photos, the Site Plan, and various photographs of the property and surrounding area. Mr. Schwager reviewed the Staff Findings and Conditions of Approval.

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The following spoke in favor of the request:

Duane Nathaniel, 1115 Cristland Rd., Louisville, KY 40214
Star Allen, 1820 Lytle Street, Louisville, KY 40203
leesha Nathaniel, 1115 Cristland Rd., Louisville, KY 40214

Summary of testimony of those in favor:

Duane Nathaniel, Star Allen, and leesha Nathaniel spoke in favor of the request. Mr. Nathaniel explained the daily operations and responded to questions from the Board Members.

NOTE: Recording of the meeting was restored.

The following spoke in opposition of the request:

Timothy Mattingly, 430 S. 16th Street, Louisville, KY 40203
Donna Mattingly, 430 S. 16th Street, Louisville, KY 40203

Summary of testimony of those in opposition:

01:29:22 Timothy Mattingly spoke in opposition of the request. Mr. Mattingly stated he is totally against Flip the Script in his neighborhood. Mr. Mattingly stated he is for people getting help with recovery, but not next to his house. Mr. Mattingly stated that would bring the value of his home down. Mr. Mattingly stated they put a privacy fence up, but you can still see the people on the deck smoking cigarettes. Mr. Mattingly responded to questions from the Board Members (see recording for detailed presentation).

01:33:11 Donna Mattingly spoke in opposition of the request. Mrs. Mattingly stated she and her husband bought the house over twenty years ago, with the impression it would be a family oriented atmosphere. Mrs. Mattingly stated if they thought it was going to be somewhat of a commercial business type, they would not have resided there. Mrs. Mattingly stated they support the idea of it, and they have no problems with the people that own the house, they just don't want that next door to them (see recording for detailed presentation).

01:36:22 Zach Schwager stated there were opposition emails that he received, but they were attached to the agenda and the Board Members should have them. Chair Howard stated they had them (see recording for detailed presentation).

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REBUTTAL:

01:37:33 Chair Howard asked Ms. Nathaniel if they had been cited for operating the transitional housing prior to obtaining the Conditional Use Permit. Mr. Schwager stated as he was preparing the staff report he looked up to see if anything had been cited and there was nothing in the system. Chair Howard stated her reason for asking was that the opposition had mentioned they didn't know they were having a transitional home until it just popped up (see recording for detailed presentation).

01:38:46 Mr. Nathaniel stated no. Mr. Nathaniel stated when he was remodeling, he ran into all the neighbors that he knew, and he did not get cited for anything because he had not started anything, but the neighbors kept seeing a lot of them over there remodeling (see recording for detailed presentation).

01:40:40 Mr. Schwager stated he misspoke earlier, and it was cited for an enforcement case. Mr. Schwager stated someone had called it in. Joe Haberman stated somebody calling in a case isn't a violation, it's just a complaint. Mr. Haberman stated a complaint was filed and a case was opened, and it was inspected. Mr. Haberman stated he is not seeing any notice of violation or citation noted in the system, but even if there were, the Board could act on this, that wouldn't prevent the Board from acting (see recording for detailed presentation).

01:42:30 Mr. Nathaniel stated that's what he was talking about, training, and bringing in peer support specialists. Mr. Nathaniel stated a lot of people were willing to help him, and they probably had more people while they were setting up coming in and out of the house than you would see now. Mr. Nathaniel stated they have had no residential people living there. Mrs. Nathaniel responded to questions from the Board Members (see recording for detailed presentation).

01:44:52 Board Member's deliberation

02:15:44 On a motion by Member Leanhart, seconded by Member Vozos, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Conditional Use Permit to allow a transitional home in the R-6 Residential Multi-Family Zoning District (LDC 4.2.55):

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal meets all applicable policies of the Comprehensive Plan, 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. Transportation Planning and MSD have reviewed and approved the proposal, and

WHEREAS, the Board further finds that:

There are 11 listed requirements and they will either be met, must be met, or need to be granted relief. Transitional Housing may be allowed in any zoning district upon the granting of a conditional use permit and compliance with the listed requirements. This section does not apply to any Transitional Housing that may be permitted with special standards pursuant to Section 4.3.14 of this Land Development Code.

- A. All bedrooms and sleeping areas shall meet the current occupancy limitations required in LMCO and any applicable building, fire, or life safety code. **There are three bedrooms according to the applicant. Photos of the bedrooms are attached to the agenda item. Staff has inspected the bedrooms and they meet the occupation limitation requirements.**
- B. Transitional Housing shall be a temporary housing arrangement for its residents, with stays generally being less than two (2) years. Such housing is intended to serve residents as they transition into permanent housing. **The applicant is aware of this requirement.**
- C. Transitional Housing shall have supervision of its residents, as well as structure and support services for its residents. Nonresidential uses and services that are not accessory to the Transitional Housing use shall not be carried out unless otherwise permitted and approved as a separate use. Transitional housing that serves as recovery housing should follow best practice industry standards and operational rules such as the National Alliance for Recovery Residences (NARR) standards. **The transitional home will have two staff members on site every morning and one staff member at all other times.**
- D. When reviewing a conditional use permit application for Transitional Housing, the BOZA shall, to the best of its abilities, find that the establishment of the use will not result in harm to the health, safety, or general welfare of the surrounding

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neighborhood. The property on which a Transitional Housing is situated shall not be located closer than 1,000 feet (measured in a straight line from nearest property line to nearest property line) to any property on which another Commercial Boarding House, Rehabilitation Home, or Transitional Housing use that has been approved by a conditional use permit is situated. **The applicant will need relief from this requirement as there is one other property with an approved conditional use permit for group housing within 1,000 ft. of the subject property (attached).**

- E. Transitional Housing shall meet the health, sanitation, structural, property maintenance, fire, and life safety requirements of any currently applicable federal, state, and local laws. **The applicant is aware of this requirement.**

- F. No building shall be closer than 30 feet to a property line unless required to by a form district maximum setback or build-to-line. **The applicant will need relief from this requirement as the existing structure is within 30 ft. of every property line. This relief is justified as these are existing site conditions and no new construction is proposed.**

- G. The parking requirements for the use are set forth in Chapter 9 of this Land Development Code. The BOZA may require additional or restrict parking if warranted. **The use requires one parking space and the subject property does not have any off-street or on-street parking spaces; however, the subject property is within 190 ft. of a TARC route and there is available parking in the area. The applicant has applied for a parking waiver for the required parking space that can be approved at staff level.**

- H. Signage for the use is permitted in accordance with Chapter 8 of this Land Development Code. The BOZA may further restrict signage if warranted. **The applicant has not proposed any signage.**

- I. Additional Single-Family Residential Zoning District Standards (R-R, R-E, R-1, R-2, R-3, R-4, R-5, or U-N):
 - 1. Any building shall remain or shall be constructed so that the exterior design and ornamentation is residential in character and compatible with other residential architecture in the immediate neighborhood, so that there is no evidence from the street that the use is other than residential.
 - 2. Where such a use is permitted in a structure which has been used as a residence, the permittee shall make no substantial alterations or improvements to the structure which would impair the structure's use as a residence at a later time.

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3. Off-street parking not located within a drive-way shall be located to the side or rear of the building(s).

This section does not apply.

- J. For a complete application submittal for any Transitional Housing conditional use permit, in addition to the documentation required of all conditional use permit applications, the following additional information shall be provided:

1. Type of resident population to be served, if any;
2. The proposed maximum number of residents/beds and maximum number of employees;
3. Floor plans of any building subject to the use (showing the location and dimensions of all bedrooms and sleeping areas);
4. A written statement, plans, and/or permits indicating how any building subject to the application meets or will adapted to meet all applicable building codes for the use if approved; and
5. Rules of conduct and management plan.

In the event a conditional use permit for a Transitional Housing is approved, any change to the foregoing information must be approved by the BOZA as a modification pursuant to Section 11.5A.1 of this Land Development Code.

This information has been provided by the applicant.

- K. If Transitional Housing with an approved conditional use permit is subject to two (2) or more substantiated civil and/or criminal complaints within a 12 month period, the Planning Director may request that the BOZA revoke the conditional use permit in accordance Section 11.5A.6 of this Land Development Code. 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 is aware of this requirement.**

- L. An active license of the Transitional Housing, as required by LMCO Chapter 115, shall be maintained. No transitional housing may take place unless the license is active and in the name of the current operator and property owner. If the license is not renewed and lapses for six (6) months, or in the event of a change of ownership and/or operator, a new license is not issued within six (6) months from the date of the change, the conditional use permit shall become null and void. In order to recommence any Transitional Housing use, a new conditional use permit must be granted if required. **The applicant is aware of this requirement;** and

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CASE NUMBER 21-CUP-0139

Landscape Waiver to not provide the perimeter landscape buffer areas:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as there are a variety of land uses in the general vicinity, and

WHEREAS, the Board further finds that Community Form Goal 1, Policies 9 and 10 of Plan 2040 call to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements and the impacts caused when incompatible developments unavoidably occur adjacent to one another. Community Form Goal 1, Policy 12 states design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. The waiver request can be justified because there are no proposed additions to the structure on the property and the property is not large enough to reasonably provide the required landscaping, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as they are applying for the waiver to bring the existing site conditions into compliance, and

WHEREAS, the Board further finds that the strict application of the provision would deprive the applicant of the reasonable use of the land because the property is not large enough to install the required landscaping. The applicant is also proposing to keep the residential character of the property; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0139 does hereby **APPROVE** Conditional Use Permit to allow a transitional home in the R-6 Residential Multi-Family Zoning District (LDC 4.2.55) with **RELIEF** from Requirement D because testimony presented today suggests there is no longer a boarding house and the transitional home will be more structured, and **RELIEF** from Requirement F due to existing conditions, **SUBJECT** to the following Conditions and Approval, and Landscape Waiver to not provide the perimeter landscape buffer areas.

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Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a transitional home until further review and approval by the Board.
3. Prior to lawful commencement of the transitional home use the applicant shall obtain all permits and necessary approvals required by the Office of Construction Review and other governmental agencies.
4. Maximum full time occupancy shall be limited to eight persons or the maximum allowed by the property maintenance code.

The vote was as follows:

Yes: Members Bond, Leanhart, Vozos, Ford, and Chair Howard

No: Vice Chair Buttorff

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PUBLIC HEARING

CASE NUMBER 21-CUP-0144

Request:	Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Tabor Short Term Rental
Location:	5500 Branston Drive
Owner/Applicant:	William Tabor
Jurisdiction:	Louisville Metro
Council District:	1 – Jessica Green
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:

02:22:29 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

William Tabor, 5500 Branston Dr., Louisville, KY 40216

Summary of testimony of those in favor:

02:26:23 William Tabor 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:

Tina Burnell, 3210 Huberta Dr., Louisville, KY 40216
David Heath, 5607 Landcross Dr., Louisville, KY 40216
Madonna Senn, 5515 Landcross Dr., Louisville, KY 40216

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Gina Davis, 3205 Huberta Dr., Louisville, KY 40216

Summary of testimony of those in opposition:

02:39:49 Tina Burnell asked if the individuals who were in support lived in the neighborhood. Mr. Tabor said they did not. Ms. Burnell said that Mr. Tabor stated he has owned this property since January, and he lives there fifty percent of the time. Ms. Burnell asked Mr. Tabor if he would say that is true that he has lived there fifty percent of the time since January. Mr. Tabor stated he is in and out and would say he is there thirty to seventy percent of the time. Ms. Burnell asked Mr. Tabor if his wife and children have stayed at the house. Mr. Tabor stated they are there periodically when school is out and on the weekends. Ms. Burnell asked Mr. Tabor about management of the property. Mr. Tabor stated the individuals he mentioned have agreed to assist him whenever he needs them. Mr. Tabor stated they are working to do everything within the Louisville Metro expectations and will do his best to adhere to any and all regulations of Louisville Metro. Ms. Burnell asked Mr. Tabor if he was wanting the short term rental for financial reasons and Mr. Tabor stated that was his and his wife's business. Ms. Burnell stated her family has lived there for twenty-three years and they are opposed to a short term rental. Ms. Burnell stated they have long term rentals in the neighborhood, and they don't want to see family homes in their neighborhood turned into what is more or less a motel situation and how that will impact the quality of the neighborhood (see recording for detailed presentation).

02:50:46 Mr. Tabor responded to questions from Member Leanhart regarding his contact information (see recording for detailed presentation).

02:52:42 David Heath spoke in opposition of the request. Mr. Heath stated he lives within a hundred yards of the property. Mr. Heath asked Mr. Tabor if he was going to rent his home in Mississippi while he is here fifty percent of the time. Mr. Tabor said he doesn't know; his family has not made that decision. Mr. Heath asked Mr. Tabor if he has ever managed a rental and Mr. Tabor said no. Mr. Heath stated there is nothing against Mr. Tabor personally, but they are opposed to short term rentals (see recording for detailed presentation).

02:58:01 Madonna Senn spoke in opposition of the request. Ms. Senn stated her driveway is directly across from Mr. Tabor's. Ms. Senn stated they have lived in the subdivision for thirty-six years. Ms. Senn stated it is an all residential subdivision and they are opposed to an Airbnb because they never know who would be in that home. Ms. Senn stated they told Mr. Tabor if he wanted to rent it long term, they were all okay with that. Ms. Senn stated they had a paper with twenty-three signatures, and she

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asked if the Board had received that. Mr. Tabor stated that was the sign-in sheet from the neighborhood meeting (see recording for detailed presentation).

03:01:04 Gina Davis stated she is in opposition of an Airbnb in their residential neighborhood. Ms. Davis stated she has been in the neighborhood for forty-six years. Ms. Davis stated they have about two hundred residents in the area with only one way in and one way out and they are concerned about people coming in temporarily (see recording for detailed presentation).

REBUTTAL:

03:04:12 William Tabor spoke in rebuttal. Mr. Tabor stated he is not here to discredit the way anyone feels, he is here to follow the rules that have been set forth by Louisville Metro. Mr. Tabor stated he has done nothing but try to raise the property value by making sure the landscape looks nice and he does everything in his power to be a good neighbor. Mr. Tabor responded to questions from the Board Members (see recording for detailed presentation).

03:12:39 Board Members' deliberation

03:22:32 On a motion by Vice Chair Buttorff, seconded by Member Leanhart, the following resolution, based upon the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the request does not meet Standard of Review #2, and that the proposed use is not compatible with surrounding neighborhood, and does not fit in the general character where it is located; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0144 does hereby **DENY** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in an R-4 Zoning District and Neighborhood Form District.

NOTE: Member Bond left the meeting at approximately 5:00 p.m.

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The vote was as follows:

Yes: Members Leanhart, Vozos, Vice Chair Buttorff, and Chair Howard

No: Member Ford

Absent: Member Bond

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CASE NUMBER 21-CUP-0154

Request:	Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Alvord Short Term Rental
Location:	1629 Beechwood Avenue
Owner/Applicant:	Timothy and Rebecca Alvord
Jurisdiction:	Louisville Metro
Council District:	8 – Cassie Chambers-Armstrong
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:

03:26:12 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Rebecca Alvord, 1629 Beechwood Ave., Louisville, KY 40204

Summary of testimony of those in favor:

03:30:30 Rebecca Alvord spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke neither for nor against the request:

Eric Feller, 5702 Rhodes Way, Louisville, KY 40222

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Summary of testimony of those neither for nor against:

03:41:11 Eric Feller spoke neither for nor against the request. Mr. Feller stated this property is just a few doors down from one that he manages, and that is the whole house, not a carriage house. Mr. Feller asked Ms. Alvord if she has it set on Instant Book. Ms. Alvord stated she does, but they have to have a forty-eight hour notice. Mr. Feller asked if Ms. Alvord is registered as a long term renter as well. Ms. Alvord stated they are actually zoned R5-B which allows that. Mr. Feller stated they've been on this panel trying to get permits for different properties over the years and with the 600 foot rule, sometimes it's granted sometimes it's not, and he would just ask for some consistency there (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

03:45:33 Jon Crumbie provided information regarding the other approved CUP's (see recording for detailed presentation).

03:46:30 Mr. Feller asked Ms. Alvord if she is only renting the back or if she would ever rent the entire property. Ms. Alvord stated they only rent the carriage house (see recording for detailed presentation).

03:47:10 Board Members' deliberation

03:53:16 On a motion by Member Leanhart, seconded by Member Vozos, 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

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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:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental. **The applicant has been informed of this requirement.**
- B. The dwelling unit shall be limited to a single short term rental contract at a time. **The applicant has been informed of this requirement.**
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **The subject property is smaller than two acres. The applicant states that the residence has two bedrooms that will allow a maximum number of four guests.**
- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, within 600' of the subject property, there are two properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host. The applicant is requesting relief to the provision in accordance with LDC Section 4.2.2.B. If the Board does not grant relief, the application does not meet all of the listed requirements and the conditional use permit cannot be approved.**

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- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The applicant has been informed of this requirement.**
- F. Food and alcoholic beverages shall not be served by the host to any guest. **The applicant has been informed of this requirement.**
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts. **The applicant has been informed of this requirement.**
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **The site has credit for on street parking and there appears to be ample spaces along the street. The applicant states that there is one dedicated off-street parking space for the accessory dwelling unit.**
- 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

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not limited to, reported drug activity, theft and criminal mischief. **The applicant has been informed of this requirement.**

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

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0154 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-5B Zoning District and Traditional Neighborhood Form District, with **RELIEF** from Standard 4D because the owner actually lives on the property and there have been no complaints and based on the testimony heard today, and **SUBJECT** to the following Conditions of Approval.

Conditions of Approval:

- 1. The conditional use permit approval for this short term rental located at the rear of the property shall be allowed up to two bedrooms. A modification of the conditional use permit shall be required to allow additional bedrooms.

- 2. The host of record for the short term rental shall maintain his or her primary residence in the front dwelling unit on the subject property. In the event that the host establishes primary residence on another property he or she must immediately cease conducting short term rentals of the rear unit on the subject property. A new Conditional Use Permit shall be required to allow for short term rental of any unit on the property that is not the primary residence of the host.

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CASE NUMBER 21-CUP-0154

The vote was as follows:

Yes: Members Leanhart, Vozos, Ford, Vice Chair Buttorff, and Chair Howard
Absent: Member Bond

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PUBLIC HEARING

CASE NUMBER 21-APPEAL-0006

Request:	Appeal of Administrative Official
Project Name:	Staebler Avenue Appeal
Location:	108 Staebler Avenue
Owner/Appellant:	Harmony Property Management, LLC
Representative:	Christopher Morris
Jurisdiction:	City of Saint Matthews
Council District:	9 – Bill Hollander
Case Manager:	Chris French, AICP, Planning & Design Supervisor

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

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

Agency testimony:

03:59:12 Chris French stated Planning and Design Services staff is not representing the Administrative Official but are going to give a brief presentation and introduce the case then turn it over to the Administrative Official and their representation for the City of St. Matthews. Mr. French presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

Administrative Official testimony:

04:02:08 Chair Howard swore in John Singler, attorney for the City of St. Matthews (209 Old Harrods Creek Rd., Louisville, KY 40223), and Jack Ruf, Code Enforcement Officer for the City of St. Matthews, 3940 Grandview Ave., Louisville, KY 40207, at the same time. Mr. Singler stated they got a complaint about a short term rental at 108 Staebler which is a problem because the City of St. Matthews did not approve the amendment that added short term rental as a permitted use across lots of zoning classifications. Mr. Singler stated it is not a permitted use in R-5 Zoning, and their development code is very clear on uses that are not stated as permitted uses. Mr. Singler stated their conclusion was it is not allowed; if it's not stated as a permitted use it's not allowed. Mr. Singler stated the development code is a list of things you can do,

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not a list of the thousands of things that you can't do. Mr. Singler stated it is not permitted and so they issued the violation notice. Mr. Singler stated that was the position of Metro Louisville as well; that was the reason they passed the amendment to the zoning code in 2016 because there was no permitted use allowing short term rental. Mr. Singler stated he can use this property as a short term rental if he would apply for rezoning for instance, and there's other boarding/lodging houses use in office and residential and commercial zones, so he has options. Mr. Singler stated they gave him those options. Mr. Singler stated they tried to introduce him to a use that's similar to the use he wants to do with short term rental, that allows the transient use of property for short term stays. Mr. Singler stated he has appealed this and he says this is like any other single family use, and because you don't define it specifically that its allowed under single family residential zoning. Mr. Singler stated that's not the way short term rental has been defined by Metro Louisville; clearly Metro Louisville realizes that this is not just a regular single family use, and in fact the Kentucky Supreme Court agrees. Mr. Singler stated they have not selectively enforced against this individual, they responded to a neighbor's complaint (see recording for detailed presentation).

04:09:43 Jack Ruf stated he wanted to summarize his actions. Mr. Ruf stated he received a complaint from a neighbor, and he opened an investigation. Mr. Ruf stated he then began a series of site inspections (and all of his comments will be referring to the property at 108 Staebler Avenue). Mr. Ruf reported the findings of his site inspections and stated from these observations it was his conclusion that the property was being used as a short term rental. Thus, on July 28th he issued a notice of violation in order to stop use to Harmony Property Management, LLC, the owner of the property for violation of the permitted uses listed in the R-5 Zone (see recording for detailed presentation).

Appellant testimony:

04:12:06 Chair Howard swore in Christopher Morris, attorney for the appellant (231 Breckenridge Lane, Suite 201, Louisville, KY 40207). Mr. Morris questioned Mr. Singler regarding definitions in the St. Matthews Development Code for short term rental and rental home. Mr. Morris and Mr. Singler discussed permitted uses that are and are not listed in the development code. Mr. Morris questioned Mr. Ruf regarding the notice of violation, land development code definitions, and zoning regulations (see recording for detailed presentation).

04:43:45 Chair Howard swore in the appellant, Larry Gatti (6516 Harrods View Circle, Prospect, KY 40059). Mr. Morris stated he thinks it's undisputed that there is no definition to short term rental in the St. Matthews Code. Mr. Morris stated on page one

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on the City of St. Matthews filing it says the development code is a permissive code and that a use must be listed as a permitted use in the applicable zoning classification. Mr. Morris stated there also is no definition or listed permissive use for a rental property altogether. Therefore, that is not a permitted use, according to St. Matthews own rationale. Mr. Morris stated Mr. Ruf issued a Notice of Violation without talking to anybody to see what the property was being used for and has stated that the property violates a term that is not defined. Mr. Morris stated it is their position that until St. Matthews defines short term rental and until St. Matthews amends its code to allow rental as a permitted use, there cannot be, by definition, a violation as a short term rental (see recording for detailed presentation).

04:49:35 Joe Haberman stated he wanted to note there is someone in attendance that signed up to speak in support of the administrative official, but the card got shuffled, and he wanted to let her know that was a clerical error and she'll be provided the chance to speak and the appellant will be given a chance to rebut anything she says (see recording for detailed presentation).

04:50:10 Mr. Morris stated he doesn't think it's germane if someone is opposed to a short term rental or not, this is an appeal based on a legal decision made by an administrator. Mr. Morris stated they will stipulate that the home has been rented. Mr. Morris asked questions of Mr. Gatti (see recording for detailed presentation).

04:59:10 Mr. Haberman called Kayla Spangler who was signed up to speak in support of the administrative official. However, Ms. Spangler was unable to connect. Mr. Morris stated they would stipulate that Ms. Spangler is opposed to the rental of the property, however she terms it (see recording for detailed presentation).

05:00:57 Mr. Gatti responded to questions from Vice Chair Buttorff (see recording for detailed presentation).

05:02:20 Joe Haberman reminded the Board Members that Mr. Singler may have questions of the testimony that he heard today, and we still need to call for any other speakers (see recording for detailed presentation).

05:02:54 Mr. Ruf responded to a question from Member Vozos (see recording for detailed presentation).

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05:03:48 Mr. Singler asked Mr. Gatti if he lists this property on Airbnb, VRBO, or any of the other short term rental sites. Mr. Gatti said yes. Mr. Singler asked Mr. Gatti if he has registered the property as a short term rental with Louisville Metro. Mr. Gatti stated he has registered the property as a rental. Mr. Gatti responded to questions from Mr. Singler regarding use of the property (see recording for detailed presentation).

REBUTTAL:

05:10:42 Mr. Singler spoke in rebuttal (see recording for detailed presentation).

05:12:01 Board Members' deliberation

05:34:50 On a motion by Member Leanhart, seconded by Member Vozos, the following resolution, based upon St. Matthews Development Code Articles 3C 1 and 2, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the administrative official acted correctly in issuing the Notice of Violation and Stop Use Order; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-APPEAL-0006 does hereby **AFFIRM** the action taken by the administrative official and **DENY** the appeal.

The vote was as follows:

Yes: Members Leanhart, Vozos, Ford, and Chair Howard

No: Vice Chair Buttorff

Absent: Member Bond

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The meeting adjourned at approximately 8:00 p.m.

DocuSigned by:

Lula Howard

Chair

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DocuSigned by:

Sharon Bond

Secretary

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