

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

July 20, 2020

A meeting of the Louisville Metro Board of Zoning Adjustment was held on July 20, 2020 at 1:00 p.m. online via Cisco Webex Video Teleconferencing.

Members Present:

Lula Howard, Chair
Kimberly Leanhart, Vice Chair
Richard Buttorff, Secretary
Lindsey Jagoe
Michael Seale

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Reverman, Planning & Design Assistant Director
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Steve Hendrix, Planning & Design Coordinator
Nia Holt, Planner I
Zach Schwager, Planner I
Laura Ferguson, Legal Counsel
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 July 20, 2020 Board of Zoning Adjustment meeting was held online.

The following cases were heard:

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July 6, 2020 BOARD OF ZONING ADJUSTMENT SPECIAL MEETING MINUTES

00:06:57 On a motion by Member Seale, seconded by Member Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the July 6, 2020 Board of Zoning Adjustment Special online meeting.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Seale, Vice Chair Leanhart, and Chair Howard

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0049

Request: Variance to allow principle structures to encroach into the required side yard setbacks.
Project Name: Stevenson Variance
Location: 119 -121 Stevenson Avenue
Owner(s): David Klemenz
Applicant: Bill Schroll
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
Case Manager: Nia Holt, 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:

00:08:53 Nia Holt presented the case and showed a Powerpoint presentation. Ms. Holt noted that the staff report will be amended to include both addresses, and these changes are reflected in the Powerpoint presentation. Ms. Holt responded to questions from the Board Members (see staff report and recording for detailed presentation).

00:20:27 Due to technical difficulties, Chair Howard stated she would call the next case on the agenda, then return to hear this case.

00:34:32 Chair Howard recalled this case.

The following spoke in favor of the request:

David Klemenz, 11000 Fairway Point Drive, Louisville, KY 40241

Summary of testimony of those in favor:

00:35:03 David Klemenz spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0049

The following spoke in opposition of the request:

No one spoke.

00:43:56 Board Members' deliberation

00:48:40 On a motion by Vice Chair Leanhart, seconded by Member Buttorff, the following resolution, based upon the Amended Staff Report, the Staff Powerpoint presentation, 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 proposed addition must be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposed property line shift does not greatly alter the current circumstances, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as there is only proposed construction on one of the lots and the proposed addition must comply with building codes, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as it is a minor encroachment; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0049 does hereby **APPROVE** Variance from Land Development Code Section 5.1.10.F to allow a principle structure to encroach into the required side yard setback (**South Side Yard-121 Stevenson Requirement 3 ft., Request 1.8 ft., Variance 1.2 ft; North Side Yard-119 Stevenson Requirement 3.13 ft., Request 1 ft., Variance 2.13 ft.**), **SUBJECT** to the following Condition of Approval.

Condition of Approval:

1. The applicant shall submit a Minor Subdivision Plat application to Planning & Design services for review and approval to shift the property line between 119 Stevenson

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CASE NUMBER 20-VARIANCE-0049

and 121 Stevenson Ave. The approved minor plat shall be recorded with the Jefferson County Clerk prior to issuance of building permits.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Seale, Vice Chair Leanhart, and Chair Howard

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CASE NUMBER 20-VARIANCE-0056

Request: Variance to allow an addition to an existing structure to encroach into the required street side and front yard setbacks

Project Name: Lees Lane Variance

Location: 4217 Lees Lane

Owner/Applicant: Tracie Tarrence

Jurisdiction: Louisville Metro

Council District: 1 – Jessica Green

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:

00:21:42 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).

00:34:17 The applicant for this case had not yet joined the meeting. Therefore, Chair Howard recalled the previous case.

00:53:20 Chair Howard recalled this case.

The following spoke in favor of the request:

Tracie Tarrence, 4217 Lees Lane, Louisville, KY 40216

Summary of testimony of those in favor:

00:53:59 Tracie Tarrence spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 20-VARIANCE-0056

The following Spoke in opposition of the request:

No one spoke.

01:14:16 Board Members' deliberation

01:15:26 A motion was made by Member Seale, seconded by Member Buttorff, that Case Number 20-VARIANCE-0056 be **DENIED**. This motion was **WITHDRAWN**.

01:17:47 Public Hearing was reopened to allow Ms. Tarrence an opportunity to respond to questions (see recording for detailed presentation).

01:23:21 On a motion by Member Seale, seconded by Member Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 20-VARIANCE-0056 to the August 17, 2020 Board of Zoning Adjustment meeting.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Seale, Vice Chair Leanhart, and Chair Howard

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PUBLIC HEARING

CASE NUMBER 20-CUP-0018

Request: Conditional Use Permit for a short term rental of a dwelling unit that is the primary residence of the host in a Traditional Neighborhood Zoning District
Project Name: Short Term Rental
Location: 1233 South Sixth Street
Owner/Applicant: Barney A. Sutton
Jurisdiction: Louisville Metro
Council District: 6—David James
Case Manager: Steve Hendrix, Planning and Design Coordinator

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

THIS CASE WAS WITHDRAWN. THEREFORE, NO VOTE OR ACTION WAS TAKEN.

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CASE NUMBER 19-CUP-0274

Request: Conditional Use Permit to allow a short term rental of a dwelling unit that is not the primary residence of the host
Project Name: Cleveland Boulevard Short Term Rental
Location: 3011 Cleveland Boulevard
Owner: One Fourteen, LLC
Applicant: Alexandria Bolton – Chill House, LLC
Jurisdiction: Louisville Metro
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:

01:26:06 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:

Alexandria Bolton, 2014 Cherokee Pkwy., Apt. F, Louisville, KY 40204

Summary of testimony of those in favor:

01:28:56 Alexandria Bolton 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.

01:33:41 Board Members' deliberation

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01:34:02 On a motion by Vice Chair Leanhart, seconded by Member Seale, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

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

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

WHEREAS, the Board further finds that:

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. **According to the applicant there are three bedrooms; LDC regulations will permit up to eight 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

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property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, there are zero properties with an approved conditional use permit for a non-host occupied short term rental within 600 ft. of the subject property (see Attachment 3).**

- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The dwelling unit is a single-family residence.**
- F. Food and alcoholic beverages shall not be served by the host to any guest. **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. **LDC standards credit the site with one on-street parking space. There is parking for one car in the attached garage. In addition, 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

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action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief. **The applicant has been informed of this requirement.**

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

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0274 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host (LDC 4.2.63), **SUBJECT** to the following Condition of Approval.

Condition of Approval:

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

The vote was as follows:

Yes: Members Buttorff, Jagoe, Seale, Vice Chair Leanhart, and Chair Howard

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01:36:41 Meeting was recessed.

01:45:12 Meeting was reconvened.

01:45:13 Chair Howard stated someone was in the chatroom wanting to speak on the last case on today's agenda (20-CUP-0042) which is being continued to August 3, 2020. The Board Members discussed whether or not testimony would be taken today in regard to this case. Mr. Haberman clarified the caller just wanted to know if the case would be heard today. The Board Members decided to not hear any testimony on this case today, as it would be heard on August 3, 2020.

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PUBLIC HEARING

CASE NUMBER 20-CUP-0037

Request: Conditional Use Permit for a short term rental of a dwelling unit that is not the primary residence of the host in a R-5 Zoning District
Project Name: Short Term Rental
Location: 4811 South Fifth Street
Owner/Applicant: Joseph Tkach
Jurisdiction: Louisville Metro
Council District: 21 - Nicole George
Case Manager: Steve Hendrix, Planning and Design Coordinator

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

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

Agency testimony:

01:46:53 Steve Hendrix presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Joseph Tkach, 4456 S. 6th Street, Louisville, KY 40214

Summary of testimony of those in favor:

01:49:19 Joseph Tkach 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.

01:53:03 Board Members' deliberation

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PUBLIC HEARING

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01:53:20 On a motion by Vice Chair Leanhart, seconded by Member Seale, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

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

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

WHEREAS, the Board further finds that:

Short Term Rental Term Rental of a dwelling unit that is not the primary residence of the host 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 dwelling has two bedrooms which will allow for six 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

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property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, there is no other property with an approved Conditional Use Permit allowing short term rental that is not the primary residence of the host within 600' of the subject property.**

- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The structure is a single family dwelling.**
- F. Food and alcoholic beverages shall not be served by the host to any guest. **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 34 feet of street frontage along South Fifth Street, a single car garage and a parking pad on the side of the 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

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which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief. **The applicant has been informed of this requirement.**

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-CUP-0037 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a single family 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 2 bedrooms. A modification of the conditional use permit shall be required to allow additional bedrooms.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Seale, Vice Chair Leanhart, and Chair Howard

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PUBLIC HEARING

CASE NUMBER 20-CUP-0041

Request: Conditional Use Permit to allow a short term rental of a dwelling unit that is not the primary residence of the host
Project Name: Ervay Avenue Short Term Rental
Location: 633 Ervay Avenue
Owner: Sandra & William Sneden
Applicant: Jonathan Klunk – Key Source Properties
Jurisdiction: Louisville Metro
Council District: 15 – Kevin Triplett
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:

01:55:48 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Justin Reid, 1372 S. 6th Street, Louisville, KY 40208
Sandra and William Sneden, 408 Robmont Road, Charlotte, NC 28270

Summary of testimony of those in favor:

01:59:04 Justin Reid spoke in favor of the request (see recording for detailed presentation).

02:00:43 Sandra and William Sneden 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:

Phillip Flarsheim, 622 Ervay Ave., Louisville, KY

Summary of testimony of those in opposition:

02:05:43 Phillip Flarsheim spoke in opposition of the request. Mr. Flarsheim stated he did not know there were perhaps long term plans, which could change his opinion on his opposition. Mr. Flarsheim responded to questions from the Board Members (see recording for detailed presentation).

02:10:52 Mrs. Sneden responded to a question from Mr. Flarsheim (see recording for detailed presentation).

02:12:45 Mr. Flarsheim continued his testimony. Mr. Haberman responded to Mr. Flarsheim's question regarding the duration of the Conditional Use Permit. Mr. Flarsheim expressed concerns about this property being used indefinitely as a short term rental (see recording for detailed presentation).

02:14:49 Joe Haberman stated Chair Howard may have lost connectivity. Member Seale made a statement regarding the 600 foot rule (see recording for detailed presentation).

02:16:43 Mr. Flarsheim stated he was not aware of that restriction. Mr. Flarsheim stated he would withdraw his opposition (see recording for detailed presentation).

02:17:15 Joe Haberman clarified the waiver to the 600 foot requirement. Mr. Haberman stated we have lost Ms. Howard from the meeting. Mr. Haberman stated we could continue as long as we have quorum (see recording for detailed presentation).

02:19:14 Vice Chair Leanhart asked if there was anyone else signed up to speak in opposition. Mr. Haberman said no. Mr. Haberman stated Chair Howard has lost her connection to the meeting, and he has asked her if she would like for the Board to continue with the remainder of the agenda. Mr. Haberman stated Chair Howard would like for the Board to proceed as it seems she is unable to reconnect to the meeting. Vice Chair Leanhart chaired the remainder of today's meeting.

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REBUTTAL:

02:24:29 Mr. and Mrs. Sneden spoke in rebuttal (see recording for detailed presentation).

02:27:41 Board Members' deliberation

02:27:54 On a motion by Member Buttorff, seconded by Member Seale, the following resolution, based upon Standard of Review and Staff Analysis, the testimony heard today, and the applicant's justification, was adopted:

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

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

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

WHEREAS, the Board further finds that:

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.**

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- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **According to the applicant, there are three bedrooms; LDC regulations permit up to eight guests.**
- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, there are zero properties with an approved conditional use permit for a non-host occupied short term rental within 600 ft. of the subject property (see Attachment 3).**
- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The dwelling unit is a single-family residence.**
- F. Food and alcoholic beverages shall not be served by the host to any guest. **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. **LDC standards credit the site with one on-street parking space (parking is only permitted on the north side of Ervay Avenue as the south side is a fire lane) and there is additional**

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parking in the driveway. In addition, there appears to be available parking in the area.

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

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

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

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

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

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RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-CUP-0041 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host (LDC 4.2.63), **SUBJECT** to the following Condition of Approval.

Condition of Approval:

1. The conditional use permit approval for this short term rental shall be allowed up to three bedrooms. A modification of the conditional use permit shall be required to allow additional bedrooms.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Seale, and Vice Chair Leanhart

Absent: Chair Howard

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CASE NUMBER 20-CUP-0042

Request: Conditional Use Permit for a private institutional use (Buddhist Temple) in a single family zoning district.
Project Name: Phuoc Hau Temple
Location: 1521 Penile Road
Owner: The Buddhist Association, Phuoc Hau, Inc. by Nghiem Van Nguyen
Applicant: Concepts21, PLLC., Mohammad Nouri
Jurisdiction: Louisville Metro
Council District: 13 - Mark Fox
Case Manager: Steve Hendrix, Planning and Design Coordinator

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

02:30:03 On a motion by Member Seale, seconded by Member Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 20-CUP-0042 to the August 3, 2020 Board of Zoning Adjustment meeting.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Seale, and Vice Chair Leanhart
Absent: Chair Howard

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02:30:49 Prior to adjournment, Joe Haberman advised the Board Members that the committee meeting will probably be set up sometime next month. The Board Members agreed the opposite Monday of a regular Board meeting would be good.

The meeting adjourned at approximately 3:35 p.m.

Chair

Secretary