

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

June 18, 2018

A meeting of the Louisville Metro Board of Zoning Adjustment was held on June 18, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Lula Howard, Secretary
Dwight Young
Richard Buttorff
Lester Turner, Jr.
Kimberly Leanhart

Members Absent:

Mike Allendorf, Chair
Rosalind Fishman, Vice Chair

Staff Members Present:

Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Steve Hendrix, Planning & Design Coordinator
Ross Allen, Planner I
Dante St. Germain, Planner I
Jon Crumbie, Planning & Design Coordinator
Beth Jones, Planner II
Travis Fiechter, Legal Counsel
Sue Reid, Management Assistant

00:00:43 On a motion by Member Buttorff, seconded by Member Leanhart, Lula Howard was elected to serve as Pro Tem Chair to preside over today's Board of Zoning Adjustment meeting. The motion carried by a unanimous vote.

The following cases were heard:

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APPROVAL OF MINUTES

June 4, 2018 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:04:19 On a motion by Member Turner, seconded by Member Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on June 4, 2018.

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Leanhart, and Howard

Absent: Vice Chair Fishman, and Chair Allendorf

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PUBLIC HEARING

Case Number 18VARIANCE1043

Request:	Variance to allow an enclosed porch to encroach within the 3 ft. side yard
Project Name:	Mulberry Street Variance
Location:	912 Mulberry Street
Owner/Applicant:	Nicholas A. Spalding
Representative:	Nicholas A. Spalding
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
Case Manager:	Ross Allen, 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:

00:05:41 Ross Allen presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Nicholas Spalding, 912 Mulberry Street, Louisville, KY 40217
Kevin Spalding, 1008 Broadfields Dr., Louisville, KY 40207

Summary of testimony of those in favor:

00:09:45 Nicholas Spalding spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:14:09 Kevin Spalding 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.

00:20:01 Board Members' deliberation

00:21:17 On a motion by Member Young, seconded by Member Buttorff, the following resolution, based upon the Staff Analysis, the testimony heard today, and the variance justification, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the applicant states that "improvements sought will be built according to all applicable building codes and required permits will be obtained. The exterior wall of the addition closest to the neighbor will be a one-hour fire rated. The improvements will not obstruct any view of traffic for pedestrians or drivers", and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the applicant states, "the exterior siding will match the existing house, which is similar to other houses in the area." The existing residential dwelling already encroaches into the side yard setback and the resulting enclosure of a roofed porch for additional finished space will be flush with the existing exterior wall of the dwelling, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the "improvements sought will be built according to all applicable building codes and required permits will be obtained. The exterior wall of the addition, closest to the neighbor, will be a one hour fire rated exterior wall. The addition is essentially not visible from the street and results in not creating a hazard or nuisance to the public, and

WHEREAS, the Board further finds that The requested variance will not allow an unreasonable circumvention of the zoning regulations in "Germantown/ Schnitzelburg area, and specifically on Mulberry Street. Many houses in the area appear to be within approximately three feet of the adjoining side yard property lines. The applicant's addition will be no closer to my neighbor's property than the existing house", and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general

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vicinity or the same zone because “many houses in the area do not appear to be in conformance with the current required side yard setback standard of three feet. Some if not many of the homes were built prior to the zoning regulations.” The existing dwelling and roofed porch that is to be converted to finished living space are already within the side yard setback and the applicant is conforming to LDC requirements if the variance is approved, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as the proposed enclosure of the existing porch will allow additional storage space (the addition will include a closet) and the addition will allow access to the second story living space that is currently only accessible from the exterior of the residence, and

WHEREAS, the Board further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no improvements will be initiated until the variance is granted and permits are obtained, and

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18Variance1043 does hereby **APPROVE** Variance from Land Development Code Section 5.2.2.C.2, Table 5.2.2 for a proposed enclosed existing rear addition to encroach into the three ft. side yard setback on an R-6 zoned parcel within the Traditional Neighborhood Form District (**Requirement 3 ft., Request 2 ft., Variance 1 ft.**).

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Leanhart, and Howard

Absent: Vice Chair Fishman, and Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 17DEVPLAN1197

Request: Review of a Category 3 Development Plan for the Beecher Terrace Lifelong Wellness Building
Project Name: Beecher Terrace Senior Living – Phase I
Location: 320 Roy Wilkins Ave.
Owner/Applicant: Tim Barry – Louisville Metro Housing Authority
Representative: Missy Legel – Civil Design Inc.
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith
Case Manager: Ross Allen, 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:

00:23:12 Ross Allen presented the case and showed a Powerpoint presentation. Mr. Allen responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Missy Legel, 3404 Stony Spring Circle, Louisville, KY 40220
Mike Saunders, 720 Olive Street, Suite 2500, St. Louis, MO 63132
Bernard Pincus, 420 S. 8th Street, Louisville, KY 40203

Summary of testimony of those in favor:

00:32:29 Missy Legel spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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00:37:08 Christa Robinson (601 W. Jefferson Street, Louisville, KY 40202; Councilwoman Sexton-Smith's office), asked a question of the applicant regarding plans for the pool (see recording for detailed presentation).

00:37:31 Mike Saunders spoke in favor of the request and responded to Ms. Robinson's question regarding the pool (see recording for detailed presentation).

00:40:48 Bernard Pincus was called, but declined to speak (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

00:41:24 Board Members' deliberation

00:42:02 On a motion by Member Young, seconded by Member Buttorff, the following resolution, based upon the evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 17DEVPLAN1197 does hereby **RE-APPROVE** a Category 3 Development Plan for the proposed mixed-use 4 story 111,857 sq. ft. structure with proposed changes which do not impact any of the previously approved variances or waivers for the Beecher Terrace Lifelong Wellness Building – Phase I as associated with the Vision Russell Transformation Plan.

The vote was as follows:

Yes: Members Young, Buttorff, Turner, and Howard

Abstain: Member Leanhart

Absent: Vice Chair Fishman, and Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1045

Request: Variance to allow a private yard area to be less than the required 30% of the area of a lot
Project Name: Quadrant Avenue Addition
Location: 1548 Quadrant Avenue
Owner: Kathleen Kronauer
Applicant: Anne Del Prince
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
Case Manager: Dante St. Germain, 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:

00:44:06 Dante St. Germain presented the case and showed a Powerpoint presentation. Ms. St. Germain responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Anne Del Prince, 640 Country Club, Louisville, KY 40206

Summary of testimony of those in favor:

00:48:30 Anne Del Prince spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:52:11 Chris French stated according to Chapter 5, Part 1 of the Code, if the house that's encroaching existed prior to the adoption of the Form Districts, then it's not non-conforming, it would be considered in compliance with the Code (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

00:54:04 Board Members' deliberation

00:54:41 On a motion by Member Turner, seconded by Member Young, the following resolution, based upon the testimony heard today, the variance justification statement, and the Standard of Review and Staff Analysis, 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 reduction in private yard area will not impact the public, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the reduction in private yard area is relatively small and will not be apparent at the right-of-way, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the reduction in private yard area is relatively small, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the addition is of a reasonable size and the garage has standard dimensions, necessitating a relatively small reduction in private yard area, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the lot is similar in width to other nearby lots in the front, and widens to the rear which provides more potential private yard area than other nearby lots, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by requiring the applicant to construct a less useable addition or forego a garage in order to provide the full required private yard area, and

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

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1045 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 (**Requirement 30% [1,830 sf], Request 22.1% [1,348 sf], Variance 7.9% [482 sf]**).

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Leanhart, and Howard

Absent: Vice Chair Fishman, and Chair Allendorf

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CASE NUMBER 18VARIANCE1048

Request: Variance to allow a structure to encroach into the required side yard setback
Project Name: Moser Road Addition
Location: 905 Moser Road
Owner: Richard & Highnight Allgeier
Applicant: Richard Allgeier
Jurisdiction: City of Douglass Hills
Council District: 19 – Julie Denton
Case Manager: Dante St. Germain, 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:

00:56:50 Dante St. Germain presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Richard Allgeier, 905 Moser Road, Louisville, KY 40223

Summary of testimony of those in favor:

01:00:38 Richard Allgeier spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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01:04:27 Board Members' deliberation

01:04:58 On a motion by Member Leanhart, seconded by Member Young, the following resolution, based upon the testimony heard today and the Staff findings, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the addition will be constructed according to 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 encroachment is created by the irregular shape of the lot, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the encroaching portion of the structure will have to follow all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the encroachment occurs because the applicant proposes to keep the addition wall in line with the existing wall, and the lot is irregular in shape, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the lot is irregular in shape and becomes narrower to the rear, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by requiring the applicant to offset the wall and construct an addition which is not in line with the existing wall, and

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

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CASE NUMBER 18VARIANCE1048

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1048 does hereby **APPROVE** Variance from City of Douglass Hills Land Development Code Table 5.4.1 to allow a structure to encroach into the required side yard setback (**Requirement 7 ft., Request 2.83 ft., Variance 4.17 ft.**).

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Leanhart, and Howard
Absent: Vice Chair Fishman, and Chair Allendorf

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PUBLIC HEARING

CASE NUMBER 18VARIANCE1049

Request: Variance to allow a sign to exceed the maximum allowed area in the Traditional Neighborhood form district

Project Name: Family Dollar Sign

Location: 5312 S 3rd Street

Owner: Iroquois Legacy Center LLC

Applicant: Bardenwerper, Talbott & Roberts PLLC

Representative: John Talbott

Jurisdiction: Louisville Metro

Council District: 21 – Vitalis Lanshima

Case Manager: Dante St. Germain, 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:

01:06:34 Dante St. Germain presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

John C. Talbott, 1000 N. Hurstbourne Parkway, 2nd Floor, Louisville, KY 40223
Paul Fischer, 4610 Bittersweet Road, Louisville, KY 40218 (signed in but was not present to speak)

Summary of testimony of those in favor:

01:10:18 John Talbott spoke in favor of the request and showed a Powerpoint presentation. Mr. Talbott responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:

Ann Ramser, 307 E. Kenwood Drive, Louisville, KY 40214

Summary of testimony of those in opposition:

01:16:27 Ann Ramser spoke in opposition of the request and showed some pictures of the shopping center. Ms. Ramser spoke in regard to landscaping and screening of refuse disposal containers. Ms. Ramser responded to questions from the Board Members (see recording for detailed presentation).

01:25:51 Travis Fiechter, Legal Counsel, advised Ms. Ramser the only thing before the Board today is specifically regarding the signage, so photos of other similar signs in the area are relevant. Mr. Fiechter requested the speaker to limit her comments to things relevant to the current request (see recording for detailed presentation).

01:26:13 Ms. Ramser stated she would move on to her condition request. Ms. Ramser asked that if the variance is granted, conditions be attached that the shopping center be required to plant trees. Ms. Ramser responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

01:38:16 John Talbott spoke in rebuttal (see recording for detailed presentation).

01:40:29 Board Members' deliberation

01:45:06 On a motion by Member Young, seconded by Member Buttorff, the following resolution, based upon the applicant's testimony and the applicant's justification statement, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare because these issues are largely ones pertaining to obstruction of visibility for

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impacts of a kind other than aesthetics. And this application only has to do with replacing a sign of similar size due to the company's new logo, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity because most of the signs in the immediate area, notably as part of the adjacent shopping center and CVS store and other commercial uses on the west side of South Third Street are of similar size or larger of the practical need, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or a nuisance to the public because of the reasons set forth above including the fact that we are not talking about the obstruction of visibility in to or out of the center or of internal traffic circulation. Also, the new attached sign will not impede or diminish or in other way adversely affect traffic flow, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because of the reasons set forth above, including, as stated, that other commercial signs in the area already exceed the designated maximums and the new sign is simply to update the company's logo and it does not change the existing size in any significant manner, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances, which do not generally apply to land in the general vicinity because, once again, the application attempts to address the special circumstances of large, multi-tenanted shopping centers where visibility of the many different uses is impaired, which otherwise adversely affects the ability of these center, like this one, to survive, and

WHEREAS, the Board further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship because of the reasons set forth above, including the fact that the need for the attached signage is a matter of assuring economic viability, which will be difficult, if not impossible, without updating the logo of the company, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation which relief is sought but rather to modernize its logo to keep current with branding in today's marketplace, all without any significant change from the pre-existing sign currently in place; now, therefore be it

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CASE NUMBER 18VARIANCE1049

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18VARIANCE1049 does hereby **APPROVE** Variance from Land Development Code Table 8.3.1 (Traditional Neighborhood) to allow a sign to exceed the allowed maximum area (**Requirement 60 sf., Request 135.86 sf., Variance 75.86 sf.**).

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Leanhart, and Howard
Absent: Vice Chair Fishman, and Chair Allendorf

01:46:19 Meeting was recessed.

01:46:38 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 16CUP1025

Request: Conditional Use Permit to allow off-street parking in an R-5 zoning District
Project Name: None
Location: 2071 South Preston Street
Owner/Applicant: Wettig Properties, LLC
Jurisdiction: Louisville Metro
Council District: 15 – Marianne Butler
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:

01:47:09 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:

Cliff Ashburner, 101 S. 5th Street, Suite 2500, Louisville, KY 40202
Chris Brown, 3001 Taylor Springs Drive, Louisville, KY 40220 (spoke in rebuttal)
Anthony Wettig, 213 Brown Ave., Louisville, KY 40207
Jonathan Wettig, 1141 Logan Street, Louisville, KY 40204

Summary of testimony of those in favor:

01:53:39 Cliff Ashburner spoke in favor of the request and showed a Powerpoint presentation. Mr. Ashburner responded to questions from the Board Members (see recording for detailed presentation).

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02:05:58 Jon Crumbie stated Item C of the requirements for Conditional Use Permits says keep the minimum front street side yards free of parking. Mr. Crumbie stated you have to submit something that shows relief is required; instead the applicant filed a Variance application. Mr. Crumbie stated relief is all that is needed (see recording for detailed presentation).

02:06:52 Cliff Ashburner responded to questions from the Board Members (see recording for detailed presentation).

02:08:33 Anthony Wettig and Jonathan Wettig were called, but declined to speak (see recording for detailed presentation).

The following spoke in opposition of the request:

Bryon Aviles, 2101 S. Preston Street, Louisville, KY 40217

Summary of testimony of those in opposition:

02:09:41 Bryon Aviles spoke in opposition of the request. Mr. Aviles stated his concerns are the lights from the cars and the exit. Mr. Aviles stated he is also concerned about safety with the addition of two parking spaces. Mr. Aviles responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

02:19:35 Cliff Ashburner spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

02:23:19 Chris Brown responded to questions from the Board Members (see recording for detailed presentation).

02:34:34 Cliff Ashburner spoke in rebuttal (see recording for detailed presentation).

02:37:03 Jon Crumbie responded to questions from the Board Members (see recording for detailed presentation).

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02:38:00 Mr. Ashburner responded to questions from the Board Members (see recording for detailed presentation).

02:38:56 **Board Members' deliberation**

02:49:40 **NOTE:** Public Hearing was reopened to allow Mr. Ashburner an opportunity to respond to questions from the Board Members (see recording for detailed presentation).

02:53:46 **Board Members' deliberation**

03:00:49 On a motion by Member Young, seconded by Member Turner, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 16CUP1025, Conditional Use Permit to allow off-street parking in an R-5 zoning district and associated waivers, does hereby **DEFER** the case to the **July 2, 2018** Board of Zoning Adjustment meeting.

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Leanhart, and Howard

Absent: Vice Chair Fishman, and Chair Allendorf

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PUBLIC HEARING

18CUP1042

Request:	Conditional Use Permit to allow short term rental of a dwelling unit in the Traditional Neighborhood Zoning District (TNZD)
Project Name:	Short Term Rental
Location:	1704 S. 3rd Street
Owner/Applicant:	Michael McCoy
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Beth Jones, AICP, Planner II

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

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

Agency Testimony:

03:02:08 Beth Jones presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Michael McCoy, 1704 S. 3rd Street, Louisville, KY 40208

Summary of testimony of those in favor:

03:05:20 Michael McCoy spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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18CUP1042

03:07:40 Board Members' deliberation

03:08:00 On a motion by Member Turner, seconded by Member 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 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 does not appear to create substantial additional requirements for the site, and

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **According to the applicant, the rental consists of a one-bedroom/one-bathroom suite; LDC regulations permit up to six guests.**
- D. The dwelling unit shall be a single-family residence, duplex or condominium. This provision shall not be waived or adjusted. **PVA lists the existing structure as a single-family residence.**

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- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **LDC regulations credit the 50 ft. property frontage with two on-street parking spaces. A parking pad of the alley at the rear of the site provides off-street parking for up to four vehicles, if stacked.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1042 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit in the Traditional Neighborhood Zoning District (TNZD) (LDC 4.2.63), **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

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

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The vote was as follows:

Yes: Members Young, Buttorff, Turner, Leanhart, and Howard
Absent: Vice Chair Fishman, and Chair Allendorf

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18CUP1047

Request: Conditional Use Permit to allow short term rental of dwelling units zoned R-6 not the primary residence of the host
Project Name: Short Term Rental
Location: 834 Franklin Street
Owner/Applicant: Yong Cha
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith
Case Manager: Beth Jones, AICP, Planner II

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

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

Agency Testimony:

03:09:31 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Yong Cha, 2222 Glenmary Ave., Louisville, KY 40204

Summary of testimony of those in favor:

03:18:44 Yong Cha spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

03:24:56 Joe Haberman advised the Board Members Condition of Approval #3 as listed in the Staff Report would require clarification in assigning particular

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numbers of guests for enforcement reasons (see recording for detailed presentation).

03:26:08 Mr. Cha responded to questions from the Board Members. Mr. Cha stated he had been made aware at the neighborhood meeting that there had been some noise issues. Mr. Cha stated he has not had any negative calls since the neighborhood meeting. Mr. Cha stated his goal is to not cause any problems with this property in the future (see recording for detailed presentation).

The following spoke in opposition of the request:

Mary Jane Emrich, 827 Franklin Street, Louisville, KY 40206

Sandy Griffith, 831 Franklin Street, Louisville, KY 40206

Summary of testimony of those in opposition:

03:34:45 Mary Jane Emrich spoke in opposition of the request. Ms. Emrich stated is concerned about parking being a significant issue. Ms. Emrich stated she was not invited to any of the meetings regarding this request, nor was her neighbor. Ms. Emrich stated she also does not have Mr. Cha's phone number. Ms. Emrich responded to questions from the Board Members (see recording for detailed presentation).

03:38:15 Sandy Griffith spoke in opposition of the request. Ms. Griffith stated she is not opposed to Airbnb, but she is opposed to 834 Franklin Street because of the consistent rude and unscrupulous behavior by Yong Cha and associates. Ms. Griffith stated they have endured trash piled the length of his property, cans overflowing (including using the neighbors' cans) in spite of her approaching the maintenance people letting them know what days trash could go out. Ms. Griffith spoke about parking issues. Ms. Griffith spoke about noise issues (see recording for detailed presentation).

REBUTTAL:

03:45:06 Mr. Cha spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

03:49:47 Travis Fiechter, Legal Counsel, stated the code enforcement issues will run their process regardless of what we do, but we really need to distance

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ourselves from that as much as possible. Mr. Fiechter stated we're considering the CUP, and we need to make the decision based on current land conditions (see recording for detailed presentation).

03:51:50 Board Members' deliberation

03:55:33 On a motion by Member Young, seconded by Member Leanhart, the following resolution, based upon the testimony heard today and the evidence provided, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1047 does hereby **DENY** Conditional Use Permit to allow short term rental of dwelling units zoned R-6 not the primary residence of the host (LDC 4.2.63) due to the request being incompatible with surrounding land uses, specifically the noise and odor; also the request does not provide sufficient amount of parking available for the host and guests.

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Leanhart, and Howard
Absent: Vice Chair Fishman, and Chair Allendorf

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PUBLIC HEARING

18CUP1057

Request: Conditional Use Permit to allow short term rental of dwelling units zoned R5-B not the primary residence of the host

Project Name: Short Term Rental

Location: 1303 Goddard Avenue

Owner/Applicant: SMK Holdings LLC

Jurisdiction: Louisville Metro

Council District: 8 – Brandon Coan

Case Manager: Beth Jones, AICP, Planner II

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

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

Agency Testimony:

03:59:35 Beth Jones presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Stephanie Kertis, 1401 Goddard Ave., Louisville, KY 40204

Summary of testimony of those in favor:

04:03:13 Stephanie Kertis spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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04:06:40 Board Members' deliberation

04:07:23 On a motion by Member Young, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the applicant's testimony, 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, and

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

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **According to the applicant, the residence has one bedroom; up to six guests are permitted.**
- D. The dwelling unit shall be a single-family residence, duplex or condominium. This provision shall not be waived or adjusted. **PVA lists the existing structure as a single-family residence.**

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- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **LDC regulations credit the 99 ft. property frontage on Goddard with four on-street parking spaces; parking is not permitted in Barrett. One on-site space is available in a garage accessed via Barrett.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1057 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit not the primary residence of the host (LDC 4.2.63), **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

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

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The vote was as follows:

Yes: Members Young, Buttorff, Turner, Leanhart, and Howard

Absent: Vice Chair Fishman, and Chair Allendorf

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18CUP1058

Request:	Conditional Use Permit to allow short term rental of dwelling units zoned R5-B not the primary residence of the host
Project Name:	Short Term Rental
Location:	1404 Goddard Avenue
Owner:	Juan Vassallo
Applicant:	Sally Vassallo
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Beth Jones, AICP, Planner II

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

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

Agency Testimony:

04:09:20 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Sally Vassallo, 7238 Heatherly Square, Louisville, KY 40242
Fred Levine, 154 Thierman Lane, Louisville, KY 40207

Summary of testimony of those in favor:

04:15:12 Sally Vassallo spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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04:18:00 Fred Levine spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

04:19:17 Board Members' deliberation

04:20:06 On a motion by Member Leanhart, seconded by Member Young, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the 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, and

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

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.

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- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals. **According to the applicant, the residence has four bedrooms; LDC regulations permit up to twelve guests.**
- D. The dwelling unit shall be a single-family residence, duplex or condominium. This provision shall not be waived or adjusted. **PVA lists the existing structure as a single-family residence.**
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **On-street parking is prohibited on both the Goddard and Barrett Avenue frontages. A parking pad accessible via Goddard Avenue can accommodate up to two vehicles.**
- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1058 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit not the primary residence of the host (LDC 4.2.63), **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

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

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

2. The short term rental and host shall meet all additional provisions set forth in the Louisville Metro Code of Ordinances.
3. The number of guests at any one time shall be limited to ten.

The vote was as follows:

Yes: Members Young, Buttorff, Turner, Leanhart, and Howard

Absent: Vice Chair Fishman, and Chair Allendorf

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ADJOURNMENT

04:22:19 Joe Haberman stated the Fee Schedule has been updated effective July 1, 2018.

The meeting adjourned at approximately 5:37 p.m.

Chair

Secretary