

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

July 6, 2020

A meeting of the Louisville Metro Board of Zoning Adjustment was held on July 6, 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
Brian Davis, Planning & Design Manager
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Steve Hendrix, Planning & Design Coordinator
Jay Lockett, Planner I
Zach Schwager, Planner I
Travis Fiechter, 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 6, 2020 Board of Zoning Adjustment meeting was held online.

The following cases were heard:

BOARD OF ZONING ADJUSTMENT MINUTES
July 6, 2020

June 29, 2020 BOARD OF ZONING ADJUSTMENT SPECIAL MEETING MINUTES

00:06:29 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 June 29, 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

July 6, 2020

BUSINESS SESSION

CASE NUMBER 20-MCUP-0004

Request: Modification of the Conditional Use Permit to allow the hours of operation to be 24 hours a day, seven days a week
Project Name: Hours of Operation
Location: 2673 Outer Loop
Owner/Applicant: Waste Management of Kentucky, by Marie Burnett, Manager
Representative: Greg Ehrhard, Stites & Harbison, PLLC
Council District: 13 – Mark Fox
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:

00:08:14 Steve Hendrix presented the case and showed a Powerpoint presentation. Mr. Hendrix noted that changes had been made to the staff report, and these changes were reflected in the Powerpoint presentation. Mr. Hendrix responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition of the request:

No one spoke.

00:17:29 On a motion by Member Seale, seconded by Member Buttorff, the following resolution, based upon the Staff Powerpoint presentation, and the testimony heard today, was adopted:

BOARD OF ZONING ADJUSTMENT MINUTES
July 6, 2020

BUSINESS SESSION

CASE NUMBER 20-MCUP-0004

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-MCUP-0004 does hereby **APPROVE** Modification of the Conditional Use Permit Listed Requirement to allow the hours of operation to be from:

4:00 am – 12:00 am 7 days a week,
the Gas/Energy Plant 24 hours a day, 7 days a week
and
Special Circumstances: 24/7 Operation
Kentucky Derby weekend
State Fair
Floods, natural disasters, emergency cleanups and other extraordinary events.

With the exception of this modification to Condition **C xi**, this approval is **SUBJECT** to the existing Conditions of Approval.

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES

July 6, 2020

PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0002

Request: Variance to allow a proposed structure to exceed maximum infill height and to reduce required private yard
Project Name: Cherokee Springs
Location: 1576 Cherokee Rd
Owner/Applicant: Cherokee Springs, LLC
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
Case Manager: Jay Lockett, AICP, 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:

00:21:59 Jay Lockett presented the case and showed a Powerpoint presentation. Mr. Lockett responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jon Baker, 400 West Market Street, Suite 2000, Louisville, KY 40202
Cash Motor, 550 S. 4th Street, Louisville, KY 40202

Summary of testimony of those in favor:

00:28:41 Jon Baker spoke in favor of the request and showed a Powerpoint presentation. Mr. Baker responded to questions from the Board Members (see recording for detailed presentation).

00:50:05 Cash Motor spoke in favor of the request and referred to the Powerpoint presentation (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES

July 6, 2020

PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0002

00:51:39 Jon Baker spoke in favor of the request (see recording for detailed presentation).

The following Spoke in opposition of the request:

Ed Henson, 2335 Bonnycastle Ave., Louisville, KY

Tom Cooper, 1578 Cherokee Road, Louisville, KY

Gail Henson, 2335 Bonnycastle Ave., Louisville, KY

Mike Mangeot, 2322 Alta Ave., Louisville, KY

Summary of testimony of those in opposition:

00:55:37 Ed Henson spoke in opposition of the request (see recording for detailed presentation).

01:03:40 Tom Cooper spoke in opposition of the request (see recording for detailed presentation).

01:09:00 Gail Henson spoke in opposition of the request and showed a Powerpoint presentation (see recording for detailed presentation).

01:14:56 Mike Mangeot spoke in opposition of the request (see recording for detailed presentation).

REBUTTAL:

01:19:22 Jon Baker spoke in rebuttal. Cash Motor spoke in regard to the private yard area calculations. Ann Richard (543 Washburn Ave., Louisville, KY) responded to questions from the Board Members regarding drainage. Cash Motor responded to questions from the Board Members regarding the building height. Ann Richard responded to questions from the Board Members regarding the building footprint and landscaping. Mr. Baker discussed sidewalks (see recording for detailed presentation).

01:34:40 Board Members' deliberation

01:48:46 On a motion by Vice Chair Leanhart, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

BOARD OF ZONING ADJUSTMENT MINUTES

July 6, 2020

PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0002

Variance from Land Development Code Section 5.4.1.D.2 to reduce the required private yard area from 30% to 0%:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect public health, safety, or welfare as the proposed reduction does not impede the safe movement of pedestrians or vehicles, and the public park opposite Cherokee Park provides a generous amount of land for recreational opportunities to improve health, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as multi-family development at scales similar to the proposal do not commonly provide amenities at the rear but rather in interior courtyards or along the frontage similar to the proposal. The lack of private yard area for multi-family development in the area is evident in the abutting property to the south, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as private yard areas are not open to the public and the reduction in private yard allows for the rear alley to be utilized for private and guest parking at a ratio suggested by the Bonnycastle Neighborhood Plan, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as multi-family development at scales similar to the proposal do not commonly provide amenities at the rear but rather in interior courtyards or along the frontage similar to the proposal; and

Variance from Land Development Code Section 5.1.12.A.2.d to exceed the maximum allowable infill height by 5'9" from 44' to 49'9":

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will generally not adversely affect public health, safety or welfare as the proposed height does not impede the safe movement of pedestrians or vehicles, or negatively impact views along Cherokee Road of the park or within the public realm, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the general vicinity contains a range of housing styles from the more common 2/2.5 story single-family residential structure to the 20-story multi-family "landmark" dominating a single corner of Cherokee Park. Multi-family structures in the area possess a wide variety of bulk, height, layout, orientation, and design that adds to the diversity and uniqueness of these historic neighborhoods.

BOARD OF ZONING ADJUSTMENT MINUTES

July 6, 2020

PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0002

The proposed structure would fall within the range of heights in the area and be architecturally consistent with the area, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed height does not impact the safe movement of pedestrians or vehicles, alter the character of the area, or cause environmental degradation, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the proposed structure falls within the range of heights in the area and adds to the diversity of architecture in the area; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0002 does hereby **APPROVE** Variance (20-VARIANCE-0002) from Land Development Code Section 5.4.1.D.2 to reduce the required private yard area from 30% to 0%, and Variance (20-VARIANCE-0003) from Land Development Code Section 5.1.12.A.2.d to exceed the maximum allowable infill height by 5'9" from 44' to 49.9'.

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES

July 6, 2020

PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0054

Request: Variance to allow an accessory structure to encroach into the required side yard setbacks
Project Name: Frankfort Avenue Variance
Location: 1830 Frankfort Avenue
Owner/Applicant: Randell Scott Simmons
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:

01:51:38 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:

Randell Simmons, 1830 Frankfort Ave., Louisville, KY 40206

Summary of testimony of those in favor:

01:56:09 Randell Scott Simmons 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.

02:03:16 Board Members' deliberation

BOARD OF ZONING ADJUSTMENT MINUTES

July 6, 2020

PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0054

02:06:03 On a motion by Member Jagoe, seconded by Vice Chair Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare, because the proposed addition must be constructed to comply with all building codes, including fire codes; however, staff is concerned that the variance could adversely affect the adjacent property owner because construction and maintenance of the structure may require encroachment onto the neighboring property, and

WHEREAS, the Board further finds that if the proposed garage is approved by the Clifton Architectural Review Committee on July 1, 2020 Planning & Design staff has no concerns that the requested variance will alter the essential character of the general vicinity, and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed structure will be a similar distance from the side property lines as the existing garage; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0054 does hereby **APPROVE** Variance from Land Development Code Section 5.1.10.F to allow an accessory structure to encroach into the required side yard setbacks (**East Side Yard Requirement 3 ft., Request 0.58 ft., Variance 2.42 ft.; West Side Yard Requirement 3 ft., Request 0.67 ft., Variance 2.33 ft.**), **SUBJECT** to the following Condition of Approval.

Condition of Approval:

1. The applicant shall submit to Planning & Design staff letters of approval from the property owners on either side stating they have no objection to maintenance of the structure on their property.

BOARD OF ZONING ADJUSTMENT MINUTES
July 6, 2020

PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0054

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES

July 6, 2020

PUBLIC HEARING

CASE NUMBER 20-CUP-0027

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: Wendell Avenue Short Term Rental
Location: 2632 Wendell Avenue
Owners/Applicants: Rory Gillman & Emily Beckman
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
Case Manager: Zach Schwager, Planner I

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

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

Agency testimony:

02:08:46 Zach Schwager presented the case on behalf of the Case Manager and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Rory Gillman, 1935 Trevilian Way, Louisville, KY 40205

Summary of testimony of those in favor:

02:11:06 Rory Gillman 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.

02:20:49 Board Members' deliberation

BOARD OF ZONING ADJUSTMENT MINUTES

July 6, 2020

PUBLIC HEARING

CASE NUMBER 20-CUP-0027

02:21:11 On a motion by Member Buttorff, seconded by Member Seale, the following resolution, based upon the Standard of Review and Staff Analysis, the testimony heard today, and the applicant's justification, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the 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 four bedrooms; LDC regulations permit up to 10 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

BOARD OF ZONING ADJUSTMENT MINUTES

July 6, 2020

PUBLIC HEARING

CASE NUMBER 20-CUP-0027

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 two on-street parking spaces and there is additional 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

BOARD OF ZONING ADJUSTMENT MINUTES

July 6, 2020

PUBLIC HEARING

CASE NUMBER 20-CUP-0027

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-CUP-0027 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 four 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

BOARD OF ZONING ADJUSTMENT MINUTES
July 6, 2020

PUBLIC HEARING

CASE NUMBER 20-CUP-0027

02:23:02 Meeting was recessed.

02:29:37 Meeting was reconvened.

BOARD OF ZONING ADJUSTMENT MINUTES

July 6, 2020

PUBLIC HEARING

CASE NUMBER 20-CUP-0038

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: Rawlings Short Term Rental
Location: 546 Rawlings Street
Owner/Applicant: Sally Miller
Jurisdiction: Louisville Metro
Council District: 15 - Kevin Triplett
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:

02:30:39 Zach Schwager presented the case on behalf of the Case Manager 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:

Austin Lott, 243 Hickory Dale Drive, Nashville, TN

Summary of testimony of those in favor:

02:35:40 Austin Lott 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:

Gwenevere Mullinsky, 605 Rawlings St., Louisville, KY

Summary of testimony of those in opposition:

BOARD OF ZONING ADJUSTMENT MINUTES

July 6, 2020

PUBLIC HEARING

CASE NUMBER 20-CUP-0038

02:44:11 Gwenevere Mullinsky spoke in opposition of the request. Ms. Mullinsky stated this property has been consistently rented and there are reviews going back to 2019 (see recording for detailed presentation).

REBUTTAL:

02:48:31 Austin Lott spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

02:52:12 Zach Schwager responded to a question from Travis Fiechter, Legal Counsel (see recording for detailed presentation).

02:54:48 Joe Haberman, Planning & Design Manager, clarified the circumstances regarding a zoning enforcement case. Mr. Haberman stated no notice of violation or citation has been sent (see recording for detailed presentation).

02:56:25 Austin Lott responded to a question from Chair Howard (see recording for detailed presentation).

02:59:54 Board Members' deliberation

03:03:29 On a motion by Member Seale, seconded by Vice Chair Leanhart, 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 request does not meet all of the listed requirements and the Conditional Use Permit cannot be approved; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-CUP-0038 does hereby **DENY** 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).

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES

July 6, 2020

PUBLIC HEARING

CASE NUMBER 20-CUP-0066

Request:	Conditional Use Permit to allow to allow a boarding house in a single-family zoning district
Project Name:	Elliott Avenue Boarding House
Location:	2709 Elliott Avenue
Owner:	Concordia, Inc
Applicant:	Susan Lawrence – Concordia, Inc
Jurisdiction:	Louisville Metro
Council District:	5 – Donna Purvis
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:

03:05:56 Zach Schwager presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

03:09:38 The applicant, Susan Lawrence, responded to questions from Mr. Schwager (see recording for detailed presentation).

03:12:47 Joe Haberman responded to questions from the Board Members (see recording for detailed presentation).

03:14:44 Ms. Lawrence responded to questions from the Board Members (see recording for detailed presentation).

03:16:15 Joe Haberman responded to questions from the Board Members. Mr. Haberman explained the reasons for the suggested Condition of Approval (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
July 6, 2020

PUBLIC HEARING

CASE NUMBER 20-CUP-0066

The following spoke in favor of the request:

Susan Lawrence, 4522 Shelby Drive, Louisville, KY 40216

Summary of testimony of those in favor:

03:21:11 Susan Lawrence spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

03:27:40 Zach Schwager responded to questions from the Board Members (see recording for detailed presentation).

03:29:01 Ms. Lawrence responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

03:34:06 Board Members' deliberation

03:44:15 On a motion by Vice Chair Leanhart, seconded by Member Seale, the following resolution, based upon Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the Comprehensive Plan in that it is a reuse of an existing structure and does not create significant additional burdens on public infrastructure, and

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

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

WHEREAS, the Board further finds that:

BOARD OF ZONING ADJUSTMENT MINUTES

July 6, 2020

PUBLIC HEARING

CASE NUMBER 20-CUP-0066

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

- A. Boarding and lodging houses located in R-E, R-R, R-1, R-2, R-3, R-4 and R-5 single-family districts shall have a maximum of 3 boarders in addition to resident family members of the boarding and lodging house keeper. Those boarding and lodging houses located in other districts shall have a maximum of 8 boarders. **The proposal meets this requirement.**
- B. All boarding and lodging houses shall comply with the administrative and maintenance requirements established in 902 KAR 20:350, only applicable when meals are served at the facility. **Meals are not served at the facility.**
- C. Boarding and lodging houses shall not have any signage which identifies the use. **The applicant has been informed of this requirement.**
- D. Boarding and lodging houses shall be located on or near a collector or arterial street with reasonable access to public transportation. **The site is located along a local road and within 200 ft. of a TARC route.**
- E. Sufficient on-site parking shall be provided as required by the Land Development Code. **Two off-street parking spaces are provided for residents. In addition, LDC standards credit the site with one on-street parking space. Transportation Planning has reviewed the site plan and issued preliminary approval. The Land Development Code requires three spaces.**
- F. All boarding and lodging houses shall comply with applicable building code and health department regulations. **The applicant has been informed of this requirement.**
- G. The Board of Zoning Adjustment shall take into account the location of other boarding and lodging houses, transitional housing, homeless shelters or rehabilitation homes in its analysis of Conditional Use Permit applications for boarding and lodging houses. **There is one such institution within a ½ mile radius of the site.**
- H. The following information shall be for all boarding and lodging house Conditional Use Permit applications:

BOARD OF ZONING ADJUSTMENT MINUTES

July 6, 2020

PUBLIC HEARING

CASE NUMBER 20-CUP-0066

1. Type of resident population intended to be served, if any (e.g. veterans, a victim group, persons recovering from substance abuse (without on-site assistance services or supervision), college students, contract/seasonal workers, parolees (without on-site assistance or supervision), single persons, etc.); **The facility serves single persons.**
2. Site plan and floor plans; **The applicant has provided sufficiently detailed site and floor plans**
3. Rules of conduct and business management plan; **The applicant has provided a copy of the House Rules for the facility.**
4. Support services to be provided and projected staffing level, if any; **Support services are not provided.**
5. Proposed maximum stay for each resident; **There is no maximum stay for residents.**
6. Any other information the Board of Zoning Adjustment deems necessary to evaluate the application; **No additional information is required at this time.**
7. Any changes to the foregoing information submitted in connection with the Conditional Use Permit application shall require the Conditional Use Permit holder to apply for a modified Conditional Use Permit from the Board of Zoning Adjustment; **The applicant has been informed of this requirement.**
- I. The operator(s) of a boarding and lodging house shall maintain a registry of residents which shall document the terms of stay of each resident. This registry shall be made available for inspection by a Code Enforcement Officer in order to determine the total number of residents residing in the boarding and lodging house at a given time and whether or not a term of stay is temporary or permanent. However, under these provisions, the operator is not required to collect and/or maintain records that may be used for discriminatory purposes under the Fair Housing Acts, including but not limited to records relating to the race, religion, gender, national origin, family status and/or disability of any resident; **The applicant has been informed of this requirement.**
- J. Board of Zoning Adjustment shall, to the best of its ability, find that the establishment of the facility will not result in harm to the health, safety or general welfare of the surrounding neighborhood, and that substantial adverse impacts on

BOARD OF ZONING ADJUSTMENT MINUTES

July 6, 2020

PUBLIC HEARING

CASE NUMBER 20-CUP-0066

adjoining properties or land uses will not result from the facilities' operations; **The applicant has been informed of this requirement.**

K. The Board of Zoning Adjustment shall find that the facility is compatible with the character of the surrounding neighborhood; **The facility has been in operation and appears to meet this requirement.**

L. No boarding and lodging house shall operate until it has received a license pursuant to Louisville Metro Code of Ordinances Section 115 and, if required, a license from the Commonwealth of Kentucky pursuant to KRS 21B; **The applicant has been informed of this requirement.**

M. Operation of a boarding and lodging house without the required license may constitute grounds for denial of a related Conditional Use Permit by the Board of Zoning Adjustment; **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-0066 does hereby **APPROVE** Conditional Use Permit for Boarding and Lodging Houses (LDC 4.2.11), **SUBJECT** to the following Conditions of Approval.

Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan, including all notes thereon. No further development shall occur on the site without prior review by and approval of the Board.
2. The Conditional Use Permit shall be exercised as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a Boarding or Lodging House without further review by and approval of the Board.
3. Prior to lawful commencement of the transitional housing use the applicant shall obtain all permits and necessary approvals required by the Office of Construction Review and other governmental agencies.
4. The boarding house shall be limited to three boarders at a time. In order to increase the number of boarders permitted at a time the applicant shall apply for a modification to this Conditional Use Permit.

BOARD OF ZONING ADJUSTMENT MINUTES
July 6, 2020

PUBLIC HEARING

CASE NUMBER 20-CUP-0066

The vote was as follows:

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

BOARD OF ZONING ADJUSTMENT MINUTES
July 6, 2020

03:47:20 Prior to adjournment, Joe Haberman stated he will be scheduling a committee meeting. Member Seale stated he has written some notes on the topic and would like to circulate it to the committee members. Mr. Haberman stated it can be sent to the entire Board for comments, however, the committee can only consist of three members. Mr. Haberman stated due to public record issues, the draft should be sent through staff.

Emily Liu, Planning & Design Director, advised that Lester Turner is no longer serving on the Board of Zoning Adjustment. Ms. Liu stated we should have a new Board Member starting the beginning of August. Ms. Liu stated there will be no Special meetings in July. The online meeting process was discussed.

The meeting adjourned at approximately 4:57 p.m.

Chair

Secretary