

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

August 3, 2020

A meeting of the Louisville Metro Board of Zoning Adjustment was held on August 3, 2020 at 1:00 p.m. online via Cisco Webex Video Teleconferencing.

Members Present:

Lula Howard, Chair
Richard Buttorff, Secretary
Lindsey Jagoe
Michael Seale
Sharon Bond

Members Absent:

Kimberly Leanhart, Vice Chair

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Haberman, Planning & Design Manager
Brian Davis, Planning & Design Manager
Chris French, Planning & Design Supervisor
Steve Hendrix, Planning & Design Coordinator
Jon Crumbie, Planning & Design Coordinator
Jay Lockett, Planner I
Lacey Gabbard, 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 August 3, 2020 Board of Zoning Adjustment meeting was held online.

The following cases were heard:

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July 20, 2020 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

Prior to approval of minutes, the Board Members welcomed new Member, Sharon Bond.

00:07:04 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 20, 2020 Board of Zoning Adjustment online meeting.

The vote was as follows:

Yes: Members Buttorff, Jagoe, and Seale

Abstain: Member Bond, and Chair Howard

Absent: Vice Chair Leanhart

BOARD OF ZONING ADJUSTMENT MINUTES
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BUSINESS SESSION

CASE NUMBER 20-VARIANCE-0090

Request: Variance to allow an addition to an existing structure to encroach into the required front yard setback
Project Name: Meadow Lane Court Variance
Location: 2108 Meadow Lane Court
Owner/Applicant: Dean & Frances Wilkinson
Jurisdiction: City of Anchorage
Council District: 17 – Markus Winkler
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:

00:10:20 Chris French presented the case on behalf of the Case Manager and showed a Powerpoint presentation. Mr. French responded to questions from the Board Members (see staff report and recording for detailed presentation).

00:19:29 On a motion by Member Seale, seconded by Member Jagoe, 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 as the structure 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 it is an existing condition and the proposed additions are minor in scale, and

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BUSINESS SESSION

CASE NUMBER 20-VARIANCE-0090

WHEREAS, the Board further finds that the requested variance will not adversely affect the public health, safety or welfare as the structure must be constructed to comply with 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 front yard setback will be the same as the existing conditions; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0090 does hereby **APPROVE** Variance from City of Anchorage Development Code Section 4.3.C.2.a to allow a principle structure to encroach into the required front yard setback (**Requirement 75 ft., Request 46.8 ft., Variance 28.2 ft.**).

The vote was as follows:

Yes: Members Buttorff, Jagoe, Seale, Bond, and Chair Howard

Absent: Vice Chair Leanhart

00:21:08 At this time, Chair Howard called Item #9 on today's agenda.

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0033

Request: Variance to exceed maximum setback, and Waivers to allow encroachments into Landscape Buffer Areas and to allow a drive-thru lane in front of a building.

Project Name: West Broadway Commercial

Location: 1209 W Broadway

Owner(s): Quadrant Hotels, LLC

Applicant: Quadrant Hotels, LLC

Jurisdiction: Louisville Metro

Council District: 4 – Barbara Sexton-Smith

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:

00:28:19 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:

Mike Hill, 503 Washburn Ave., Louisville, KY 40222
Rajesh Krishnani, 511 Bellewood Rd., Louisville, KY 40223

Summary of testimony of those in favor:

00:40:51 Mike Hill spoke in favor of the request and showed a Powerpoint presentation. Mr. Hill responded to questions from the Board Members (see recording for detailed presentation).

00:56:24 Rajesh Krishnani spoke in favor of the request (see recording for detailed presentation).

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CASE NUMBER 20-VARIANCE-0033

The following Spoke in opposition of the request:

No one spoke.

01:00:09 Joe Haberman read a comment in into the record that was submitted via the Q&A function regarding the visibility of Wendy's (see recording for detailed presentation).

REBUTTAL:

01:01:29 Mike Hill spoke in rebuttal of the comment that was read into the record and responded to questions from the Board Members (see recording for detailed presentation).

01:04:26 Board Members' deliberation

01:06:42 On a motion by Member Seale, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Variance from Land Development Code Section 5.5.1.A.2 to exceed the maximum 5 foot corner lot setback by up to 13 feet as shown on the development plan:

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, as the development will still be a significant improvement over current conditions, including pedestrian and vehicular safety, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the resulting development will bring the site further into compliance with the regulations and more in line with urban development in the immediate vicinity, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the resultant setbacks are an improvement over existing conditions on the subject site, and

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WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the current site is developed well out of compliance with current regulations, and the resultant development will be closer to current zoning regulations; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0033 does hereby **APPROVE** Variance from Land Development Code Section 5.5.1.A.2 to exceed the maximum 5 foot corner lot setback by up to 13 feet as shown on the development plan.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Seale, Bond, and Chair Howard

Absent: Vice Chair Leanhart

01:08:13 On a motion by Member Seale, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Waiver from Land Development Code Section 5.5.1.A.3 and 5.9.2.C to allow a drive-thru lane in front of a building in the Traditional Marketplace Corridor form district:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners, as the only adjacent site is also a restaurant with drive-thru in front, and

WHEREAS, the Board further finds that the waiver will not violate the comprehensive plan, as it will allow for additional commercial development in an existing commercial activity center. The waiver will not allow an unreasonable circumvention of the regulations or cause a hazard to the public, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant. The resultant development will still be an improvement over existing conditions on the subject site with respect to the current Land Development Code, and

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WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as it prevents the development of additional commercial uses on an existing commercial site; and

Waiver from Land Development Code Section 10.2.10 to allow a proposed drive-thru lane, existing parking areas and a proposed dumpster to encroach into required Vehicle Use Area Landscape Buffer Areas as shown on the development plan:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners, as other portions of the site will have an increase in buffering and plantings over current conditions, and

WHEREAS, the Board further finds that the waiver will not violate the comprehensive plan, as it will allow for continued use of an existing commercial site within an established activity center. The waiver will not allow an unreasonable circumvention of the regulations or cause a hazard to the public. The proposed development will have an increase in buffering and planting and a decrease in impervious surface, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant. Other areas of the subject site will provide increased buffers and planting, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as it would require removal of existing drive areas and prevent the redevelopment of an existing commercial site; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0033 does hereby **APPROVE** (20-WAIVER-0027) Waiver from Land Development Code Section 5.5.1.A.3 and 5.9.2.C to allow a drive-thru lane in front of a building in the Traditional Marketplace Corridor form district, and (19-WAIVER-0008) Waiver from Land Development Code Section 10.2.10 to allow a proposed drive-thru lane, existing parking areas and a proposed dumpster to encroach into required Vehicle Use Area Landscape Buffer Areas as shown on the development plan.

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The vote was as follows:

Yes: Members Buttorff, Jagoe, Seale, Bond, and Chair Howard

Absent: Vice Chair Leanhart

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PUBLIC HEARING

CASE NUMBER 20-CAT3-0006

Request: Category 3 Development Plan with height and setback variances
Project Name: Apartments
Location: 2929 Magazine Street
Applicant: LDG Development
Representative: Kelli Jones, Sabak Wilson & Lingo
Jurisdiction: Louisville Metro
Council District: 5 – Donna Purvis
Case Manager: Lacey Gabbard, 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:

01:10:45 Lacey Gabbard presented the case and showed a Powerpoint presentation. Ms. Gabbard 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
Michael Gross, 1469 S. 4th Street, Louisville, KY 40208

Summary of testimony of those in favor:

01:20:29 Cliff Ashburner spoke in favor of the case and showed a Powerpoint presentation. Mr. Ashburner responded to questions from the Board Members (see recording for detailed presentation).

01:33:37 Michael Gross 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-CAT3-0006

The following spoke in opposition of the request:

No one spoke.

01:39:24 Board Members' deliberation

01:41:06 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 statement, was adopted:

Variance from Table 5.22 to allow buildings to encroach into the required setback:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect the public health, safety or welfare, as there are no known threats in allowing the proposed building to be closer to the existing sidewalk. Placing buildings closer to the street is consistent with the goals and objectives of Plan 2040, as it creates a more appealing streetscape, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity because the existing building on the subject site appears to be encroaching into the setback. Additionally, a structure on the adjacent property to the north of the subject site (2929 W Chestnut Street) also appears to be encroaching into the setbacks, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because there are no known threats in allowing the proposed building to be located closer to the existing sidewalk. The proposed plan indicates the sight triangle on each corner of the proposed development is clear of obstructions, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because there are existing structures in the vicinity of the subject site, as well as the existing building on the subject site, that appear to be encroaching into the setbacks. Additionally, Plan 2040 supports buildings being built out to the sidewalk; and

WHEREAS, the Board further finds that the applicant's justification statements adequately justify this request; and

Variance from Table 5.22 to allow the building to be 11.5 feet taller than permitted:

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect the public health, safety or welfare, as there are no known threats in allowing the proposed building to be taller than permitted, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposed building will only be 11.5 feet taller than the maximum building height of 45 feet permitted by the Land Development Code. Additionally, there is an existing structure in the vicinity of the subject site, the Elliott Park Apartments located at 650 S 29th Street, which is five stories tall and appears to exceed the 45 foot maximum building height, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because there are no known threats in allowing the proposed building to exceed the maximum height, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since there is an existing structure in the vicinity of the subject site which is also zoned EZ-1 in the Traditional Neighborhood form district and appears to exceed the maximum building height, 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-CAT3-0006 (20-VARIANCE-0043) does hereby **APPROVE** Variance from Table 5.22 to allow buildings to encroach into the required setback, and Variance from Table 5.22 to allow the building to be 11.5 feet taller than permitted.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Seale, Bond, and Chair Howard

Absent: Vice Chair Leanhart

01:43:28 On a motion by Member Buttorff, seconded by Member Seale, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Category 3 Development Plan:

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CASE NUMBER 20-CAT3-0006

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-CAT3-0006 does hereby **APPROVE** Category 3 Development Plan.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Seale, Bond, and Chair Howard

Absent: Vice Chair Leanhart

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0055

Request: Variances to allow a proposed garage to encroach into the required street side and rear yard setbacks

Project Name: Koellner Variance

Location: 2222 Boulevard Napoleon

Owner(s): Melissa & Corey Koellner

Applicant: Anne Del Prince

Jurisdiction: Louisville Metro

Council District: 8 – Brandon Coan

Case Manager: Steve Hendrix, 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:

01:45:49 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:

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

Summary of testimony of those in favor:

01:49:14 Anne Del Prince 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.

01:55:21 Board Members' deliberation

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0055

01:55:41 On a motion by Member Jagoe, 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 requested variances will not adversely affect the public health, safety or welfare, since the garage will be approximately 18 feet from the Harvard Drive pavement, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity, since the proposal replaces an existing garage, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public, since the proposal replaces an existing garage and staff has not received any concerns, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations, since the proposal will replace an existing garage; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0055 does hereby **APPROVE** Variance from Land Development Code Section 5.4.2.C.3.a to allow a proposed garage to encroach into the required street side and rear yard setbacks (**Street Side Yard Requirement 25 ft., Request 6 ft., Variance 19 feet; Rear Yard Requirement 5 ft., Request 3 ft., 5 in., Variance 1 ft., 7 in.**).

The vote was as follows:

Yes: Members Buttorff, Jagoe, Seale, Bond, and Chair Howard

Absent: Vice Chair Leanhart

01:58:01 Meeting was recessed.

02:04:25 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 20-CUP-0042

Request: Conditional Use Permit for a private institutional use (Buddhist Temple) in a single family zoning district and variance for the building setback

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

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:

02:05:05 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:

Mohammad Nouri, 1119 Rostrevor Circle, Louisville, KY 40205

Summary of testimony of those in favor:

02:09:25 Mohammad Nouri spoke in favor of the request and showed a Powerpoint presentation. Mr. Nouri 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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PUBLIC HEARING

CASE NUMBER 20-CUP-0042

02:23:40 Steve Hendrix asked the Board Members if they had received the email send to him by a neighbor with concerns regarding the flood plain. Chair Howard stated she is not sure she has read that email. The Board Members requested Mr. Hendrix read the email. Sue Reid, Management Assistant, read the email from Paul Stegall into the record (see recording for detailed presentation).

REBUTTAL:

02:26:31 Mr. Nouri responded to the concerns addressed in the email and responded to questions from the Board Members (see recording for detailed presentation).

02:29:20 Board Members' deliberation

02:30:28 On a motion by Member Seale, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Conditional Use Permit to allow a private institutional use in a single family zoning district, R-4:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal meets all applicable policies of the Comprehensive Plan, and

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

WHEREAS, the Board further finds that the subject property is served by existing septic system and will require Health Department approval for the second phase of the development which will be the temple. Transportation Planning and MSD have signed the submitted site plan, and

WHEREAS, the Board further finds that:

Private institutional uses, except for such uses specifically regulated elsewhere in this LDC, may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N zoning districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

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CASE NUMBER 20-CUP-0042

- A. Except in the R-R zoning district, all structures, except fencing, and all off-street parking shall be at least 30 feet from any property line adjacent to an existing residential use or residential zoning district. In the R-R zoning district all structures, except fencing, shall be at least 150 feet from any property line and all off-street parking shall be at least 30 feet from any property line. **The requirement has been met.**
- B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated. **Transportation has stamped the plan.**
- C. Off-street parking not located within a driveway shall be located to the side or rear of the building(s). The number of required off-street parking spaces shall be determined by the Planning Director in consultation with the Director of Public Works based on the standards for the closest comparable use and on the particular parking demand and trip generation characteristics of the proposed use. **The requirement has been met.**
- D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99). **The applicant has been informed of this requirement.**
- E. The Board of Zoning Adjustment may set hours of operation for the institutional use in order to minimize potential negative impacts on surrounding residential properties. **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-0042 does hereby **APPROVE** Conditional Use Permit to allow a private institutional use in a single family zoning district, R-4, **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 and approval by the Board.
- 2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a private institution until further review and approval by the Board.

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CASE NUMBER 20-CUP-0042

The vote was as follows:

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

02:34:20 On a motion by Member Seale, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Variance to allow the buildings to exceed the maximum setback:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variances will not adversely affect the public health, safety or welfare, since MSD and Transportation have signed the submitted site plan, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity, since the area is rural in nature, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public, since the existing driveway entrance will be used and the residence and temple are in close proximity to the location of an existing residence which will be removed, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations, since this is a rural section of the county and the proposed location is similar to where an existing residence is now located, although to be removed; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-CUP-0042 (20-VARIANCE-0080) does hereby **APPROVE** Variance from Table 5.3.2 to allow the buildings to exceed the maximum setback (**Requirement Maximum 80 ft., Request 732 ft., Variance 652 ft.**).

The vote was as follows:

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

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CASE NUMBER 20-CUP-0043

Request:	Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Miranda short term rental
Location:	10801 Dorton Drive
Owner/Applicant:	Clara Miranda
Jurisdiction:	Louisville Metro
Council District:	25 – David Yates
Case Manager:	Jon E. Crumbie, Planning & Design Coordinator

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

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

Agency testimony:

02:36:25 Jon Crumbie presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Clara Miranda, 3101 Diemer Lane, Louisville, KY 40205

Summary of testimony of those in favor:

02:39:16 Clara Miranda 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.

02:47:20 Board Members' deliberation

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PUBLIC HEARING

CASE NUMBER 20-CUP-0043

02:47:59 On a motion by Member Seale, seconded by Member Jagoe, 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 does not conflict with Comprehensive Plan policies, and

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

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

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental. **The applicant has been informed of this requirement.**
- B. The dwelling unit shall be limited to a single short term rental contract at a time. **The applicant has been informed of this requirement.**
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **The subject property is smaller than two acres. The applicant states that the residence has four bedrooms that will allow a maximum number of ten 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

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required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, within 600' of the subject property, there are 0 properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host.**

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

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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.**

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-CUP-0043 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in an R-5 zoning district and 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 four bedrooms. A modification of the conditional use permit shall be required to allow additional bedrooms.

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The vote was as follows:

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

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CASE NUMBER 20-CUP-0046

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: 626 Floral Terrace

Owner/Applicant: Michael & Katie Meador

Jurisdiction: Louisville Metro

Council District: 6—David James

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:

02:50:29 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:

Michael Meador, 626 Floral Terrace, Louisville, KY 40208

Summary of testimony of those in favor:

02:55:55 Michael Meador 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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03:00:35 Board Members' deliberation

03:01:24 On a motion by Member Seale, seconded by Member Jagoe, 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 four bedrooms which will allow for ten guests.**

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- 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. **The proposal is within the TNZD, is owner occupied and the host has agreed to the condition of maintaining primary residency at 626 Floral Terrace and guest night rentals are not to exceed fourteen (14) in any calendar year.**
- 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 property has a one car garage and plenty of spaces along Seventh Street where visiting family members normally park.**
- 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.**

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- 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.**

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-CUP-0046 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is the primary residence of the host in a Traditional Neighborhood Zoning district and Traditional Neighborhood Form district, **SUBJECT** to the following Conditions of Approval.

Conditions of Approval:

1. The hosts of record for the short term rental shall maintain their primary residence in the dwelling unit on the subject property. In the event a primary residence is established on another property, short term rentals on the subject property must cease.

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2. The short term rental shall be used for the Kentucky Derby, the PGA and the Breeders' Cup, but not to exceed 14 days in any calendar year.
3. The Conditional Use Permit for this short term rental approval shall allow up to 4 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, Bond, and Chair Howard

Absent: Vice Chair Leanhart

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PUBLIC HEARING

CASE NUMBER 20-APPEAL-0002

Request: Appeal of an Administrative Decision
Project Name: South 7th Street Appeal
Location: 1141 South 7th Street
Appellant: SSC1147, LLC
Representative: Joseph C. Pierson
Jurisdiction: Louisville Metro
Council District: 6 – David James
Case Manager: Jon E. Crumbie, 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:

00:21:08 Joe Haberman, Planning & Design Manager, stated this case was not noticed properly, therefore, cannot be heard today (see recording for detailed presentation).

00:24:00 Chair Howard asked the applicant's representative, Joe Pierson, if he understands that this case cannot be heard today. Mr. Pierson stated he understands (see recording for detailed presentation).

00:24:55 Jon Crumbie stated he has been in contact with the applicant, and this case is going to be moved to August 31, 2020.

00:25:35 The Board Members, by general consensus, agreed that Case Number 20-APPEAL-0002 would be moved to the August 31, 2020 Board of Zoning Adjustment meeting.

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03:03:47 Prior to adjournment, Joe Haberman stated that Emily has asked if the Board Members would be willing to take on additional meetings in order to keep the meetings shorter. The Board Members agreed. Mr. Haberman stated that perhaps would be one additional meeting per month.

Mr. Haberman stated he is working on a draft for the committee meeting. Chair Howard advised Member Bond of the purpose of the committee.

The meeting adjourned at approximately 4:10 p.m.

DocuSigned by:
Lula Howard
Chair 7FEAC7453...

DocuSigned by:
Kick Buttorff
Secretary 6...