

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

November 7, 2016

A meeting of the Louisville Board of Zoning Adjustment was held on November 7, 2016, at 8:30 a.m. at the Old Jail Building, 514 W Liberty Street, Louisville, KY 40202.

Members present:

Mike Allendorf, Chair
Betty Jarboe, Vice Chair
Rosalind Fishman, Secretary
Dean Tharp
Lester Turner, Jr.
Lula Howard

Members absent:

Paul Bergmann

Staff members present:

Joe Reverman, Assistant Director
Joe Haberman, Planning Manager
Brian Davis, Planning Manager
Jon Crumbie, Planning Coordinator
Laura Mattingly, Planner I
Ross Allen, Planner I
Brian Mabry, Planning Supervisor
Beth Jones, Planner II
John Carroll, Legal Counsel
Kristen Loeser, Management Assistant

The following cases were heard:

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BUSINESS SESSION

Approval of the October 17, 2016 BOZA Meeting Minutes

00:03:33 On a motion by Board Member Fishman, seconded by Board Member Turner, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of its meeting conducted on October 17, 2016.

The vote was as follows:

Yes: Fishman, Turner, and Allendorf

Absent: Bergmann

Abstain: Howard, Jarboe, and Tharp

No: None

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BUSINESS SESSION

BOZA Bylaws Update

00:04:40 Jon Crumby discussed the BOZA Bylaws with the Board.

By general consensus, the Board approved the BOZA Bylaws as they were presented today. The Bylaws will be forwarded to the Mayor's office for final approval.

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PUBLIC HEARING

CASE NUMBER 16WAIVER1033

Project Name:	Crescent Centre
Location:	631 S 3rd Street
Owners:	TMG III Crescent LLC
Applicant:	Trilogy Real Estate
Representative(s):	William B. Bardenwerper
Project Area/Size:	3.38
Existing Zoning District:	C-3
Existing Form District:	Downtown
Jurisdiction:	Louisville Metro
Council District:	4 – David Tandy
Case Manager:	Laura Mattingly, Planner I

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

An audio/visual recording of the Board of Zoning Adjustment meeting 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:

00:07:45 Laura Mattingly presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N Hurstbourne Pkwy., Louisville, KY 40223

Summary of testimony of those in favor:

00:13:30 Nick Pregliasco spoke on behalf of the applicant and showed a presentation. The approval of three signs is being requested because the downtown form district does not specify guidelines regarding signs featuring the word “apartments.” Two of the signs on the northern portion of the site are replacing existing signs of the same size that already contain the word “apartments.” The bottom portion of the sign that states “Commercial Space Available” could be removed in the future if necessary. There is no request for signage lighting at this time.

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00:22:32 On a motion by Vice Chair Jarboe, seconded by Board Member Turner, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the sign authorization will not adversely affect adjacent property owners as the proposed signage will be located in the downtown area along with other apartments, retail, entertainment and office uses and will only be visible from the public right-of-way and within the property, and

WHEREAS, the Board further finds that Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. The sign authorization will not violate specific guidelines of Cornerstone 2020 as the proposed signage is not visible from single-family residential dwellings and is surrounded by a mixture of compatible uses with and without signage. The proposed signage appears to be compatible with the character of the surrounding downtown area, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the LDC fails to regulate residential signage in the Downtown Form District, and

WHEREAS, the Board further finds that the 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 on the applicant as the LDC does not prohibit or permit the proposed signage and authorization of the signage has been appropriately requested; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16WAIVER1033, does hereby **APPROVE** the Exceptional Signage Review for authorization of proposed attached signage for three signs totaling 198 square feet based on the Staff Report, the Standard of Review and Staff Analysis, and the testimony heard today.

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The vote was as follows:

Yes: Jarboe, Howard, Fishman, Tharp, Turner, and Allendorf

Absent: Bergmann

Abstain: None

No: None

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CASE NUMBER 16VARIANCE1078

Request: To allow an attached carport to encroach into the street side yard setback.
Project Name: 500 Oxford Place Variance
Location: 500 Oxford Place
Area: .15740 acres
Owner: Kathryn and Paul Resch
Applicant: Glen Coke – Coke General Contracting Inc.
Representative: Glen Coke – Coke General Contracting Inc.
Jurisdiction: City of St. Matthews
Council District: 9 – Bill Hollander
Case Manager: Ross Allen, Planner I

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

An audio/visual recording of the Board of Zoning Adjustment meeting 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:

00:24.12 Ross Allen presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Phillip Bills, 8508 Nottingham Pkwy., Louisville, KY 40222
Paul Resch, 3222 Beals Branch Rd., Louisville, KY 40206

Summary of testimony of those in favor:

00:30:29 Phillip Bills spoke on behalf of the applicant and showed a presentation. He stated that the subdivision was recorded in 1925 before the adoption of zoning regulations and that the lot does not meet any of the R4 standards of today. He took measurements from surrounding properties and found that the distances from the pavement to the structures vary between 12 and 23 feet. The carport is needed because the garage was renovated to a family room.

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00:42:20 The applicant, Paul Resch, spoke about the case and responded to questions from the Board. He stated that he does not have a copy of the elevation and that he is unsure of the materials that will be used for the carport at this time. He clarified that there is siding in place of the garage door.

00:44:30 Deliberation

00:45:55 Mr. Bills clarified that the carport dimensions will be 20 feet by 20 feet.

00:46:25 Deliberation

00:46:50 Mr. Allen stated that the Variance figures would be altered due to the change in the carport dimensions: **Requirement: 30 ft., Request 3 ft., Variance 27 ft.**

00:49:25 On a motion by Board Member Howard, seconded by Vice Chair Jarboe, the following resolution 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 since the proposed carport is neither encroaching into the Electric Utility Easement (neither in height or depth) and is within the property limits by approximately 5 feet, which is also the same width of the Electric Utility easement from the centerline, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the proposed unenclosed carport is located within the property lines, notably 5 feet from the street side yard property line posing no visual obstruction along Wilmington Ave. to vehicular or pedestrian traffic, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the lot is considered non-conforming for the requirement to be a width of 60 feet, being 53.65 feet wide at the rear of the subject site, and was created prior to zoning regulations, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone since the subject site is a corner lot and the lot width is considered non-

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conforming but predates applicable regulations. Since the lot width is 53.65 feet a street side yard setback of 30 feet would be roughly 56% of the lot width meaning that any construction onto the existing principal structure would need a variance and would restrict the applicant from any additions to the home. Furthermore, the recorded plat shows a 10 foot build to limit line which requires a minor plat to shift that line, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since the one car garage was converted to living space and without the proposed carport covered parking is non-existent. The carport could be placed behind the old converted garage but this would require the relocation of the driveway which is an additional expense, 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 since the Development Code, as used by St. Matthews, provides setbacks for Street Side yards that, in this case, are 56% of the width of the lot. As a result of the side yard setback the principal structure and proposed attached unenclosed carport encroach into the street side yard setback, and

WHEREAS, the Committee further finds that, based on the staff report, the applicant's justification and the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1078, does hereby **APPROVE** the Variance from the Development Code (St. Matthews Apr. 2001) Article 4 section 4.6.C.2.c to allow an attached carport to encroach 25 feet into the street side yard setback (**Requirement: 30 ft., Request 3 ft., Variance 27 ft.**) based on the Staff Report, excluding item B, the presentations shown today, and the applicant's justification statement, and **SUBJECT** to the following conditions of approval:

Conditions of Approval

1. A minor plat shall be approved to remove the recorded build-to limit line for this property.
2. The site plan shall be amended to show the corrected carport dimensions of 20 ft. by 20 ft. instead of 14 ft. by 18 ft.

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The vote was as follows:

Yes: Jarboe, Howard, Fishman, Tharp, Turner, and Allendorf

Absent: Bergmann

Abstain: None

No: None

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CASE NUMBER 16VARIANCE1080

Request: To allow a rear addition to encroach into the side yard setback and reduction in the private yard area.

Project Name: 602 Baxter Avenue

Location: 602 Baxter Avenue

Area: .07200 acres

Owner: Libor Zacek

Applicant: Bruce Rogers – CBR Architects PLLC

Representative: Bruce Rogers – CBR Architects PLLC

Jurisdiction: Louisville Metro

Council District: 4 – David Tandy

Case Manager: Ross Allen, Planner I

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

An audio/visual recording of the Board of Zoning Adjustment meeting 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:

00:52:50 Ross Allen presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Bruce Rogers, 1428 Goddard Ave., Louisville, KY 40204

Summary of testimony of those in favor:

00:59:29 Bruce Rogers, of CBR Architects PLLC, spoke on behalf of the property owner. He stated that the adjacent property along the north side of the home is a mixed-use commercial property. The subject property was a single family home that they would like to change to a multifamily triplex to include one unit on the first floor, one unit on the front second floor, and a two story third unit in the rear of the home. Regarding outdoor space, unit one will have access to the front yard and front porch, unit two will have access to the rooftop deck, and unit three will have access to the second floor deck over the back porch. The north side of the addition will be built along the property line.

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The following spoke in opposition to the request:

Timothy Early, 604 Baxter Ave., Louisville, KY 40204

Summary of testimony of those in opposition:

01:07:13 Next door neighbor, Timothy Early, stated that the owner of the property is a nice man, but he believes the proposed renovations to this property would make it a monstrosity. This has been a single family home for over 80 years, and the new owner wants to construct additions to the home and rent three separate units which would increase the square footage to over 3,000 square feet; Mr. Early's home is just over 800 square feet. Mr. Early testified that the owner told him that Airbnb is a part of the owner's plan as well. Mr. Early is also concerned that the owner wants to squeeze a third parking space into the back of the property when parking there is already tight. There is no parking in the front of Mr. Early's home because of a bus stop. He believes the property should remain a single family residence.

01:20:55 Mr. Allen stated that the zoning allows for this property to be a multifamily dwelling, so three units would be acceptable. The zoning could have been defined a number of years ago through an area wide rezoning. The floor area ratio has been met.

Rebuttal:

01:24:05 Mr. Rogers showed photographs of the site to the Board. He was informed by Counsel that these photographs would have to be provided to staff for the record. He stated that the current zoning allows for everything from single family residential to commercial occupation. He pointed out where exterior doors will be located on the home after construction is complete and explained how each unit would be accessed from the exterior. The square footage of the home is increasing from approximately 1,800 to 2,970.

Opposition:

01:38:19 Mr. Early spoke again in opposition and stated that he is familiar with this home because he assisted the owner with a reverse mortgage. The home is 1,372 square feet, not 1,800 as the owner's representative has stated. The additions would put the home at just over 3,000 square feet. He also feels that it is peculiar that the top

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deck will be placed over the roof of the second floor unit along with another deck on the back of the home.

Rebuttal:

01:41:00 Mr. Rogers provided the Board with the existing square footage as well as the proposed additional square footage from his CAD report:

Existing square footage

- Existing first floor: 956 square feet
- Existing second floor: 352 square feet

Additional proposed square footage

- Rear first floor: 522
- Rear second floor: 522
- Front second floor: 618 square feet

The total square footage of the home after construction will be 2,970.

01:42:35 Deliberation

01:44:00 In response to questions from the Board, Mr. Allen stated that the floor area ratio has been met and that there will be no greenspace in the back of the home once construction is complete.

01:54:19 On a motion by Vice Chair Jarboe, seconded by Board Member Howard, the following resolution was proposed:

The Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1080, moves to **APPROVE** Variance # 1 from the Land Development Code section 5.2.2.C, table 5.2.2 to allow an secondary story addition onto the front of the shotgun house and the addition of a rear deck onto the second story rear of the camelback portion of the shotgun house to encroach by approximately 2 feet 9 inches into the minimum side yard setback for a variance of 2 feet 3 inches, as a result of the C-1 zoned parcel be adjacent to a single family residential use based on the Staff Report, the Standard of Review and Staff Analysis, the site plan, and the applicant's testimony.

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The vote was as follows:

Yes: Jarboe, Howard, and Allendorf

Absent: Bergmann

Abstain: None

No: Fishman, Turner, and Tharp

The proposal failed.

01:57:12 On a motion by Vice Chair Jarboe, seconded by Board Member Howard, the following resolution was proposed:

The Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1080, moves to **APPROVE** Variance # 2 from the Land Development Code section 5.4.1.D.3 to allow the proposed addition to the rear of the camelback shotgun house and cantilever deck (second floor) to reduce the private yard area by approximately 629.19 sf. based on the Staff Report, the Standard of Review and Staff Analysis, and the applicant's testimony, and **SUBJECT** to the condition that the applicant provide staff with the photographs shown to the Board today.

The vote was as follows:

Yes: Jarboe, Howard, and Allendorf

Absent: Bergmann

Abstain: None

No: Fishman, Turner, and Tharp

The proposal failed.

01:59:17 Deliberation

02:12:57 Board Member Tharp expressed concern with area wide rezoning conducted in the past that allows residents to build from property line to property line.

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He does not feel that this is conducive to creating healthy communities throughout the city.

02:13:59 On a motion by Board Member Tharp, seconded by Vice Chair Jarboe, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1080, does hereby **CLOSE** the record and **CONTINUE** the case to the Business Session of the November 21, 2016 Board of Zoning Adjustment meeting.

The vote was as follows:

Yes: Jarboe, Fishman, Tharp, Turner, and Allendorf

Absent: Bergmann

Abstain: None

No: Howard

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PUBLIC HEARING

CASE NUMBER 16VARIANCE1075

Project Name:	Axis Apartments
Location:	1373 Lexington Road
Owner: Axis	Louisville LLC
Applicant:	Cityscape Residential
Representative:	Cityscape Residential
Jurisdiction:	Louisville Metro
Council District:	9 – Bill Hollander
Case Manager:	Beth Jones, AICP, Planner II

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

An audio/visual recording of the Board of Zoning Adjustment meeting 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:

02:15:30 Beth Jones stated that the applicant would like to request a continuation.

02:16:35 Lisa DeJaco spoke on behalf of the applicant and requested that the case be continued to the December 5, 2016 BOZA meeting.

02:17:17 On a motion by Board Member Fishman, seconded by Board Member Howard, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1075, does hereby **DEFER** the case to the December 5, 2016 Board of Zoning Adjustment meeting.

The vote was as follows:

Yes: Jarboe, Fishman, Howard, Tharp, Turner, and Allendorf

Absent: Bergmann

Abstain: None

No: None

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CASE NUMBER 16CUP1043

Project Name:	None (Short Term Rental)
Location:	1025 E. Breckinridge St.
Owner:	Amanda D. Montgomery
Applicant:	Amanda D. Montgomery
Representative(s):	Amanda D. Montgomery
Project Area/Size:	4,370 square feet
Existing Zoning District:	R-6, Residential Multi Family
Existing Form District:	TN, Traditional Neighborhood
Jurisdiction:	Louisville Metro
Council District:	4 – David Tandy
Case Manager:	Brian Mabry, AICP, Planning & Design Supervisor

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

An audio/visual recording of the Board of Zoning Adjustment meeting 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:

02:18:30 Brian Mabry presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Amanda Montgomery, 1027 E Breckenridge St., Louisville, KY 40204

Summary of testimony of those in favor:

02:27:54 Applicant, Amanda Montgomery, stated that her family has lived in the house next door for 11 years. They have strong relationships with their neighbors and would not do anything to jeopardize those relationships. She has been taking part in the short term rental process for a few months now and feels privileged to do so. The terms of the rental agreement are as follows: 30 days or less, one contract at a time, and one group at a time of up to eight people.

02:30:59 Deliberation

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02:31:17 On a motion by Board Member Fishman, seconded by Board Member Howard, the following resolution was adopted:

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

WHEREAS, the Board further finds that the proposal is compatible with its surroundings because the request only involves allowing a short term rental within the existing single-family dwelling. No additional development is proposed. As such, the proposal is compatible with the surrounding land uses with respect to height, bulk, scale, intensity, traffic, noise, odor, drainage, lighting and appearance, and

WHEREAS, the Board further finds that the subject property is in a developed area where public facilities are readily available. There were not any agency comments indicating that the property's existing public facilities are inadequate to serve a short term rental, 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.
The applicant has been informed of this requirement. If a contract exceeds 29 consecutive days, it is not subject to the short term rental regulations. Long term rental contracts are permitted on the property so long as the use remains single-family residential.
- 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 four individuals.

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The applicant has been informed of this requirement. The dwelling has two bedrooms and so the maximum number of individuals permitted in the short term rental is eight. The applicant has no plans to add bedrooms to the structure.

- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted.
The dwelling unit is a single-family residence.

- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
The applicant has been informed of this requirement.

- F. Outdoor signage which identifies the short term rental is prohibited.
The applicant has been informed of this requirement.

- 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.
The applicants, who live on the lot immediately to the east of the subject property, have a two-car garage at their residence and an extra parking space off the alley behind their house that they use for their personal vehicles. The applicant states in her CUP application that she and her husband never use the on-street parking in front of any of their three lots (which also includes an undeveloped lot to the west of the short term rental property); therefore, the on-street parking along the frontage of their properties would be usable by the short term rental clients.

- H. 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.

- 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.
The applicant has been informed of this provision; now, therefore be it

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1043, does hereby **APPROVE** the Conditional Use Permit to allow short term rental that is not the primary residence of the host in an R-6 zoning district based on the

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presentation heard today and the Standard of Review and Staff Analysis, and **SUBJECT** to the following conditions of approval:

Conditions of Approval

1. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.

The vote was as follows:

Yes: Jarboe, Fishman, Howard, Tharp, Turner, and Allendorf

Absent: Bergmann

Abstain: None

No: None

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CASE NUMBER 15CUP1039

Project Name:	Poe's Pet Depot
Location:	291 North Hubbards Lane
Owner(s):	Oakland Limited Partnership
Applicant(s):	Robert Poe
Representative(s):	Robert Poe
Project Area/Size:	16.76 acres
Existing Zoning District:	C-2, Commercial
Existing Form District:	SMC, Suburban Marketplace Corridor
Jurisdiction:	St. Matthews
Council District:	7 – Angela Leet
Case Manager:	Jon E. Crumbie, Planning and Design Coordinator

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

An audio/visual recording of the Board of Zoning Adjustment meeting 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:

02:32:58 Jon Crumbie presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Robert Poe, 2511 Windy Way, Louisville, KY 40207

Summary of testimony of those in favor:

02:36:36 Owner, Robert Poe, spoke regarding the case. He and his wife own a full service pet store which includes grooming services and day care. They are requesting operate nine kennels in their facility because demand for overnight boarding is growing. There is a grassy area behind the building to walk the dogs. Mr. Poe is unsure if he needs to be licensed with Metro to do this.

02:40:42 **Deliberation**

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02:40:53 On a motion by Board member Howard, seconded by Vice Chair Jarboe, the following resolution was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal meets all applicable policies of the Comprehensive Plan. A landscape plan has been approved under case number 13219, and

WHEREAS, the Board further finds that the subject site will be compatible with the surrounding land uses with respect to scale, height, drainage, dust, and appearance, and

WHEREAS, the Board further finds that the proposal has been reviewed by Public Works and MSD and both have approved the plan, and

WHEREAS, the Board further finds that Commercial kennels may be located in the R-R, R-E, R-1, R-2, R-3, R-4, C-1, C-2, C-M, M-1, M-2 or M-3 Districts where such use is compatible with surrounding land uses upon the granting of a Conditional Use Permit when developed in compliance with the listed requirements. There are 6 requirements for a commercial kennel and five will be met. Item e. does not apply since there will be no outdoor facilities.

- A. All facilities, except parking, shall be at least thirty feet from any property line.
- B. All facilities, except parking, shall be within a totally enclosed building except where it can be demonstrated that a nuisance is not created thereby.
- C. Except in districts where signs are allowed, there shall be no more than one non-illuminated sign not to exceed twelve square feet in area and not to exceed six feet in height.
- D. All roads and parking areas shall be surfaced with a hard and durable material and properly drained.
- ~~E. A woven wire fence at least six feet high shall be erected around the portion of the site used for the kennel operation.~~
- F. Off-street parking spaces shall be provided in the ratio of one space for every 1 1/2 employees plus six spaces for visitors; now, therefore be it

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PUBLIC HEARING

CASE NUMBER 15CUP1039

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 15CUP1039, does hereby **APPROVE** the Conditional Use Permit to allow a commercial kennel in a C-2 Zoning District based on the testimony heard today and the Standard of Review and Staff Analysis, and **SUBJECT** to the following conditions of approval:

Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review 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 commercial kennel without further review and approval by the Board.

The vote was as follows:

Yes: Jarboe, Fishman, Howard, Tharp, Turner, and Allendorf
Absent: Bergmann
Abstain: None
No: None

BOARD OF ZONING ADJUSTMENT MINUTES
November 7, 2016

PUBLIC HEARING

CASE NUMBER 16CUP1045

Project Name:	None
Location:	1971 Richmond Drive
Owners:	NCS Properties III, LLC
Applicant:	NCS Properties III, LLC
Representative(s):	Gordon Rose, Ann Richard
Project Area/Size:	0.26 acres
Existing Zoning District:	R-5, Residential
Existing Form District:	TN, Traditional Neighborhood
Jurisdiction:	Louisville Metro
Council District:	8 – Tom Owen
Case Manager:	Jon E. Crumbie, Planning & Design Coordinator

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

An audio/visual recording of the Board of Zoning Adjustment meeting 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:

02:43:16 Jon Crumbie presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Gordon Rose, 462 S 4th St., Louisville, KY 40202
Cassius Motor, 550 S 4th St., Louisville, KY 40202

Summary of testimony of those in favor:

02:45:34 Gordon Rose spoke on behalf of the applicant. He stated that the applicant has developed plans to create nine high end residential units as well as approximately 3,900 square feet of commercial space. They would ideally prefer that a restaurant occupy the commercial space, but they are willing to work with a retailer, if necessary. There are 25 parking spaces that will be divided between residential and commercial use. Due to the proposed use, the applicant will require exclusive use of the parking lot, which it now owns, in order to meet the development code parking requirements and also to help ensure the project's success. When the church (the

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former property owner) obtained the required approvals for the parking lot back in 1992, a condition of approval was put in place that stated that the lot would only be used by members and guests of the church as well as the businesses in the 1900 block of the west side of Bardstown Road. The applicant now requests that the condition be amended to read that the lot will only be used by the tenants and occupants of 1828 Bardstown Road as well as their customers. He stated that the church allowed neighbors to use the lot during the day, but there was no agreement.

02:52:46 Cassius Moter, of Joseph and Joseph Architects, stated that a TARC bus stop near the site has been relocated and an unused loading zone has been removed from the front of the facility to increase the street parking.

The following spoke in opposition to the request:

Jessica Smith, 201 Thierman Ln., Louisville, KY 40207

Kevin Oetken, 1708 Paisley Rd., Louisville, KY 40205

Fred Levein, 1910-1916 Bardstown Rd., Louisville, KY 40205

Summary of testimony of those in opposition:

02:54:45 Jessica Smith spoke on behalf of Fred Levein who is an owner of property in the 1900 block of Bardstown Road. She stated that the conditional use permit went into effect in 1992 which stated that both the church and properties of the 1900 block had access to the 28 parking spaces of the lot in question. She feels that NCS bought property with knowledge of the conditional use permit and it is the right of the other business owners to have access to these parking spaces. Without access to this lot, patrons of these businesses will be forced to solely use street parking, which is limited.

03:03:39 Kevin Oetken is an investor who owns a property along the 1900 block of Bardstown Road. He purchased this property with the understanding that he had access to the parking lot. He has put approximately \$90,000 into the property and believes that any future endeavors would be affected if parking is taken away.

03:08:44 Fred Levein is another property owner along Bardstown Road. He stated that he also knew the conditional use permit existed when he purchased his property in 1999. Because of the shared use of the lot, he has contributed time and money over the years to the upkeep of the lot, including paving and the installation of a dumpster. He stated that he provided information regarding the conditional use permit to the realtor listing the former church and that the applicant bought the property at a reduced rate knowing that the conditions of approval existed.

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03:12:49 Ms. Smith stated that the 1992 Staff Report noted that the businesses along the 1900 block were utilizing a portion of the lot and that the church believed this was likely to continue. This was done to reduce congestion and aid the flow of traffic. There is also concern from the neighbors that the applicant's plans for the site are not final.

Rebuttal:

03:14:53 Mr. Rose stated that his client's development plans are not final only because they have not entered into a lease with a commercial user. In regards to the reduced sale price the opposition mentioned, he stated that the property had been on the market for a year and the condition of the building was deteriorating. There has been no attempt at compromise with the neighbors at this time.

03:19:58 Mr. Moter stated that TARC did not relocate the bus stop; it was removed all together. The spaces this created are open to the general public.

Opposition:

03:22:48 Ms. Smith stated that the number of spaces needed cannot be determined at this time since NCS does not yet know what type of business will lease their property.

03:25:10 Deliberation

03:25:26 Some members of the Board questioned if the existing conditions of approval were met and took issue with the fact that photos of the parking lot were not available.

Public Hearing:

03:35:00 Public Hearing was reopened so that Mr. Rose could show the Board a current photograph of the parking lot.

03:37:14 Deliberation

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CASE NUMBER 16CUP1045

03:52:18 On a motion by Board Member Tharp, seconded by Board Member Fishman, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1045, does hereby **CLOSE** the record and **CONTINUE** the case to the Business Session of the December 5, 2016 Board of Zoning Adjustment meeting to allow the applicant and opposition to attempt to reach an agreement and report back to the Board for a final decision.

The vote was as follows:

Yes: Jarboe, Fishman, Howard, Tharp, Turner, and Allendorf

Absent: Bergmann

Abstain: None

No: None

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

CASE NUMBER 16APPEAL1010

Project Name:	Commercial Leasing/Storage
Location:	4105 Bishop Lane
Appellant:	Jeff Issis
Representative:	Jason T. Hardin, Esq.
Size:	1.17 acres
Existing Zoning District:	M-3
Existing Form District:	Suburban Workplace
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
Case Manager:	Steve Hendrix, Planning Supervisor

A legal ad was published in the Courier-Journal on October 28, 2016.

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

An audio/visual recording of the Board of Zoning Adjustment meeting 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:

03:55:50 Jon Crumbie presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the appeal:

Jason Hardin, 1303 Clear Springs Trace, Suite 100, Louisville, KY 40223
Jeff Issis, 4105 Bishop Lane, Louisville, KY 40218

Summary of testimony of those in favor:

04:04:55 Jason Hardin spoke on behalf of the appellant and stated that the client purchased the property in 2009. It is used as a commercial warehouse and storage facility. The tractor trailers predate the appellant's purchase of the property, but the appellant does use them for storage. The property is zoned M3 (see recording for detailed presentation).

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PUBLIC HEARING

CASE NUMBER 16APPEAL1010

04:25:52 Appellant, Jeff Issis, stated that some of the metal that is stored on this property comes from other business he owns and some of the items have been on the property since before he purchased it in 2009. He is storing these materials in order to use them again, if possible.

04:36:51 Deliberation

Staff Conclusions – Item 1

04:40:31 On a motion by Vice Chair Jarboe, seconded by Board Member Tharp, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16APPEAL1010, does hereby **DENY** the appeal of a Notice of Violation concerning the use of an alleged junk yard in an M-3 zoning district without a Conditional Use Permit based on the Staff Report, the photographs provided by Staff, and the definition of a junkyard on page 6 of the Staff Report.

The vote was as follows:

Yes: Jarboe, Fishman, Howard, Tharp, and Turner

Absent: Bergmann

Abstain: None

No: Allendorf

Staff Conclusions – Item 2

04:43:09 On a motion by Vice Chair Jarboe, seconded by Board Member Tharp, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16APPEAL1010, does hereby agree to grant the appellant three months to remove the items stated in the Staff Report and for Staff to provide a status report to the Board during Business Session on February 6, 2017.

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CASE NUMBER 16APPEAL1010

The vote was as follows:

Yes: Jarboe, Fishman, Howard, Tharp, and Turner

Absent: Bergmann

Abstain: None

No: Allendorf

Staff Conclusions – Item 3

04:45:26 On a motion by Vice Chair Jarboe, seconded by Board Member Tharp, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby acknowledge that the Notice of Violation issued by Planning and Design Services was **PROPER**.

The vote was as follows:

Yes: Jarboe, Fishman, Howard, Tharp, Turner, and Allendorf

Absent: Bergmann

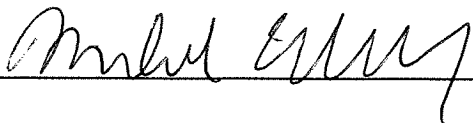
Abstain: None

No: None

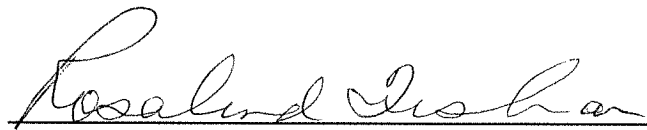
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ADJOURNMENT

The meeting adjourned at approximately 1:45 p.m.



Chair



Secretary