

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

November 4, 2019

A meeting of the Louisville Metro Board of Zoning Adjustment was held on November 4, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Lula Howard, Chair
Kimberly Leanhart, Vice Chair
Richard Buttorff, Secretary
Lester Turner, Jr.
LiAndrea Goatley

Members Absent:

Lindsey Jagoe

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Steve Hendrix, Planning & Design Coordinator
Jon Crumbie, Planning & Design Coordinator
Zach Schwager, Planner I
Lacey Gabbard, Planner I
Travis Fiechter, Legal Counsel
John Carroll, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

**BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019**

OCTOBER 28, 2019 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:04:56 On a motion by Vice Chair Leanhart, seconded by Member Goatley, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the October 28, 2019 Board of Zoning Adjustment meeting.

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

2020_BOZA_Meeting_Schedule

00:06:39 On a motion by Member Buttorff, seconded by Member Goatley, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the 2020 Board of Zoning Adjustment meeting schedule.

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0044

Request: Variance to allow a private yard area to be less than the required 20% of the area of a lot
Project Name: Stevens Avenue Variance
Location: 1645 Stevens Avenue
Owner: Jackie Green
Applicant: Scott McGalliard
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
Case Manager: Zach Schwager, Planner I

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

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

Agency testimony:

00:07:36 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Jackie Green, 1645 Stevens Avenue, Louisville, KY 40206
Scott McGalliard, 1803 Edgeland Avenue, Louisville, KY 40204

Summary of testimony of those in favor:

00:09:54 Jackie Green spoke in favor of the request (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0044

00:11:13 Scott McGalliard spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

01:12:44 Board Members' deliberation

00:13:05 On a motion by Vice Chair Leanhart, seconded by Member Goatley, 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 will need to be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the addition will not be visible from the public right-of-way, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the addition will need to 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 subject property currently does not meet the private yard area requirements prior to the proposed addition and is relatively small in area; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-VARIANCE-0044 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.3 to allow a private yard area to be less than the required 20% of the area of a lot (**Requirement 831.2 sq. ft., Request 492 sq. ft., Variance 339.2 sq. ft.**).

**BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019**

PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0044

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0057

Request: Variance to allow a fence in the front and street side yards to exceed 42 inches in height
Project Name: Douglass Boulevard Variance
Location: 2100 Douglass Boulevard
Owner/Applicant: Cara & James Baribeau
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
Case Manager: Zach Schwager, Planner I

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

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

Agency testimony:

00:14:46 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Cara Baribeau, 2100 Douglass Blvd., Louisville, KY 40205

Summary of testimony of those in favor:

00:20:35 Cara Baribeau 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.

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0057

00:25:32 Board Members' deliberation

00:27:16 On a motion by Member Turner, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the proposed fence has received approval from Public Works that there is adequate vision clearance for motorists and pedestrians, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as there are other fences in front yards and in street side yards over 42 inches in height in the area, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the fence will not obstruct sight lines or create a hazard for motorists or pedestrians at the intersection, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as a 42-inch fence would be permitted in the front yard by right. There is another fence in the area that exceeds the height requirement in a street side yard setback, 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 19-VARIANCE-0057 does hereby **APPROVE** Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence in the front yard in a Traditional Neighborhood Form District to exceed 42 inches in height (**Requirement 42 inches, Request 54 inches, Variance 12 inches**).

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-MVARIANCE-0002

Request: Variance to allow parking to encroach into the front and rear yards
Project Name: Kenlie Place
Location: 4229 Taylorsville Rd
Owner: Steve H. Scott, 4229 SMS, LLC
Representative: Steve H. Scott, 4229 SMS, LLC
Jurisdiction: Louisville Metro
Council District: 18 – Marilyn Parker
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:

00:29:00 Lacey Gabbard presented the case and showed a Powerpoint presentation. Ms. Gabbard responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Curtis Mucci, 5151 Jefferson Blvd., Louisville, KY 40219

Summary of testimony of those in favor:

00:33:10 Curtis Mucci spoke in favor of the request and showed a Powerpoint presentation. Mr. Mucci responded to questions from the Board Members (see recording for detailed presentation).

00:36:32 Board Members' deliberation

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-MVARIANCE-0002

00:37:16 Public hearing was reopened to allow Mr. Mucci an opportunity to respond to questions from the Board Members (see recording for detailed presentation).

00:39:18 Board Members' deliberation

00:39:43 On a motion by Member Turner, seconded by Member Goatley, 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 variance will not adversely affect the public health, safety or welfare because the proposed structures are interior to the Kenlie Place development and will not be visible from or affect the aesthetics of the adjacent properties, and the parking will only be utilized by residents and/or their visitors, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity because the proposed structures are interior to the Kenlie Place development and will not be visible from adjacent properties, and

WHEREAS, the Board further finds that the variance will not adversely affect the public health, safety or welfare because the proposed structures are interior to the Kenlie Place development and will not be visible from or affect the aesthetics of the adjacent properties, and the parking will only be utilized by residents and/or their visitors, and

WHEREAS, the Board further finds that The variance will not adversely affect the public health, safety or welfare because the proposed structures are interior to the Kenlie Place development and will not be visible from or affect the aesthetics of the adjacent properties, and the parking will only be utilized by residents and/or their visitors, and

WHEREAS, the Board further finds that the requested variance does arise from special circumstances since the proposal is requesting a mix of housing options where the parking and driveways for the lots are oriented differently than standard single family lots, and

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-MVARIANCE-0002

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the front yards from the proposal are all internal to the site, and the development could not achieve the density and would require a less compact development, and

WHEREAS, the Board further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. Additionally, the previously approved plan received a variance to allow parking to encroach into the front and rear yards, but since the lot configuration has changed, the currently proposed plan requires the variance request

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-MVARIANCE-0002 does hereby **APPROVE** Modified Variance from Land Development Code 5.3.1.D.1.b and 5.3.1.D.1.c to allow parking to encroach into the front and rear yards.

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0118

Request: Conditional Use Permit for a short term rental of a dwelling unit that is not the primary residence of the owner/host
Project Name: Concord Drive Short Term Rental
Location: 2501 Concord Drive
Owner/Applicant: Wayne M. Adams Jr.
Jurisdiction: Louisville Metro
Council District: 15 - Kevin Triplett
Case Manager: Steve Hendrix, Planning and Design Coordinator

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

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

Agency testimony:

00:41:40 Steve Hendrix presented the case and showed a Powerpoint presentation. Mr. Hendrix responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Wayne Adams, 214 S. 8th Street, Suite 201, Louisville, KY 40202

Summary of testimony of those in favor:

00:44:35 Wayne Adams spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0118

00:46:38 Board Members' deliberation

00:46:54 On a motion by Member Goatley, seconded by Vice Chair Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the 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.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. The dwelling has two bedrooms which would allow for six guests.

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0118

- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. As of the date of this report, there was no other property with an approved Conditional Use Permit allowing short term rental that is not the primary residence of the host within 600' of the subject property.
- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. The structure is a single family dwelling.
- F. Food and alcoholic beverages shall not be served by the host to any guest.
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- 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. There are four off-street parking spaces.
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- 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

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0118

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.

- 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.
- 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; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0118 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the owner in an R-5 Zoning District and Traditional Neighborhood Form District.

The vote was as follows:

Yes: Members Buttorff, Turner, and Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0128

Request:	Conditional Use Permit for a short term rental of a dwelling unit that is not the primary residence of the owner/host
Project Name:	Zinno Short Term Rental
Location:	1844 Shady Lane
Owner:	Donald Zinno
Representative:	Chill House, LLC
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
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:

00:48:12 Jon Crumbie presented the case and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke in favor of the request:

Kelli Zinno, 1844 Shady Lane, Louisville, KY 40205
Kylie Spivak, 234 Kennedy Ave., Apt. 2, Louisville, KY 40206

Summary of testimony of those in favor:

00:50:58 Kelli Zinno spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:01:43 Kylie Spivak provided emails in support to the Board Members. Ms. Spivak spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0128

The following spoke neither for nor against the request:

Jasmine Weatherby, 601 W. Jefferson St., Louisville, KY 40202

Summary of testimony of those neither for nor against:

01:10:45 Jasmine Weatherby, Legislative Aide to Councilman Coan, spoke neither for nor against the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

Pam Jagers, 2042 Alta Ave., Louisville, KY 40205

Alison Cromer, 2140 Bonnycastle Ave., #1A, Louisville, KY 40205

Summary of testimony of those in opposition:

01:14:30 Pam Jagers spoke in opposition of the request (see recording for detailed presentation).

01:17:54 Alison Cromer spoke in opposition of the request (see recording for detailed presentation).

REBUTTAL:

01:20:37 Kelli Zinno spoke in rebuttal (see recording for detailed presentation).

01:23:05 Kylie Spivak spoke in rebuttal (see recording for detailed presentation).

01:25:53 Board Members' deliberation

01:33:28 A motion was made by Member Buttorff that Case Number 19-CUP-0128 be DENIED. The motion failed for lack of a second.

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0128

01:34:35 On a motion by Vice Chair Leanhart, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, 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 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.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus 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 three bedrooms that will allow a maximum number of eight guests.**
- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0128

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 is one property with an approved conditional use permit allowing short term rentals that is not the primary residence of the host. The applicant is requesting relief to the provision in accordance with LDC Section 4.2.2.B. The applicant's justification for this relief is attached to this report. If the Board does not grant relief, the application does not meet all of the listed requirements and the conditional use permit cannot be approved.**

- 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.
- F. Food and alcoholic beverages shall not be served by the host to any guest.
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- 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 one on-street parking space and the applicant states that there are up to four spaces located at the rear of the site.**
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- 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

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0128

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.

- 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.
- 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; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0128 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the owner/host in an R-5 Zoning District and Traditional Neighborhood Form District, with **RELIEF** from Standard 4D because the existing CUP within 600 feet is not on the same street and is not the same type of situation as this request.

The vote was as follows:

Yes: Members Turner, Goatley, and Vice Chair Leanhart

No: Member Buttorff, and Chair Howard

Absent: Member Jagoe

**BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019**

PUBLIC HEARING

CASE NUMBER 19-CUP-0128

01:36:13 Meeting was recessed.

01:36:34 Meeting was reconvened.

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0130

Request: Conditional use permit to allow a short term rental of a dwelling unit that is not the primary residence of the owner/host

Project Name: Ellison Avenue Short Term Rental

Location: 1337 Ellison Avenue

Owner/Applicant: Nathaniel & Kimberly Blair – Blair Capital, LLC

Jurisdiction: Louisville Metro

Council District: 8 – Brandon Coan

Case Manager: Zach Schwager, Planner I

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

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

Agency Testimony:

01:36:49 Zach Schwager presented the case and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke in favor of the request:

Nathaniel Blair, 4206 Hayfield Way, Prospect, KY 40059

Summary of testimony of those in favor:

01:38:18 Nathaniel Blair 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.

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0130

01:46:31 Board Members' deliberation

01:46:58 On a motion by Vice Chair Leanhart, seconded by Member Goatley, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

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

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

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **According to the**

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0130

applicant, there are four bedrooms; LDC regulations permit up to 10 guests.

- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, there are zero properties with an approved conditional use permit for short term rental of a dwelling unit not the primary residence of the host within 600 ft of the subject property (see Attachment 3).**
- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The dwelling unit is a single-family residence.**
- F. Food and alcoholic beverages shall not be served by the host to any guest.
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **LDC standards credit the site with two on-street parking spaces along**

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0130

the property frontage. There is additional parking for one vehicle in the garage on the alley.

- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- 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.
- 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.
- 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; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0130 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit not the primary residence of the host (LDC 4.2.63).

**BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019**

PUBLIC HEARING

CASE NUMBER 19-CUP-0130

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0136

Request: Conditional Use Permit for a short term rental of a dwelling unit that is not the primary residence of the owner/host

Project Name: Rogers Street Short Term Rental

Location: 1211 Rogers Street

Owner/Applicant: Brent Wesley

Jurisdiction: Louisville Metro

Council District: 4-Barbara Sexton Smith

Case Manager: Steve Hendrix, Planning and Design Coordinator

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

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

Agency testimony:

01:48:46 Steve Hendrix presented the case and showed a Powerpoint presentation. Mr. Hendrix responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Brent Wesley, 1211 Rogers Street, Louisville, KY 40204

Summary of testimony of those in favor:

01:54:34 Brent Wesley spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0136

The following spoke neither for nor against the request:

Jonathan Klunk, 1372 S. 6th Street, Louisville, KY 40208

Summary of testimony of those neither for nor against:

02:06:22 Jonathan Klunk spoke neither for nor against the request (see recording for detailed presentation).

The following spoke in opposition of the request:

Pam Jagers, 2042 Alta Ave., Louisville, KY 40205

Summary of testimony of those in opposition:

02:08:56 Pam Jagers spoke in opposition of the request (see recording for detailed presentation).

REBUTTAL:

02:10:54 Brent Wesley spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

02:13:38 Board Members' deliberation

02:18:18 On a motion by Vice Chair Leanhart, seconded by Member Goatley, the following resolution, based upon the Standard of Review and Staff Analysis, 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. Renovation is scheduled to take place, if approved, and

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0136

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 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.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus 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 will eventually have four bedrooms which would allow for 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 required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, there is one property with an approved Conditional Use Permit allowing short term rental that is not the primary residence of the host within 600' of the subject property. The applicant has requested relief to the provision in accordance with LDC Section 4.2.2.B. If the Board does not grant relief, the applicant does not meet all of the listed requirements and the conditional use permit cannot be approved.**

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0136

- 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.
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- 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 applicant states there is one on street parking space and two off-street parking spaces.**
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- 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.

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0136

- 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.

- 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; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0136 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the owner in an R-6 Zoning District and Traditional Neighborhood Form District, with **RELIEF** from Standard 4D because this use would not have an adverse effect on the neighborhood, it is on a dead-end street, it has rear parking, and the adjoining neighbor has given support in writing.

The vote was as follows:

Yes: Member Goatley, Vice Chair Leanhart, and Chair Howard

No: Members Buttorff, and Turner

Absent: Member Jagoe

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0138

Request:	Conditional Use Permit for a short term rental of a dwelling unit that is the primary residence of the owner/host
Project Name:	Brook Street Short Term Rental
Location:	1404 South Brook Street
Owner/Applicant:	Amy King
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:

02:21:25 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:

Amy King, 1404 S. Brook Street, Louisville, KY 40208

Summary of testimony of those in favor:

02:25:37 Amy King 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.

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0138

02:35:01 Board Members' deliberation

02:37:49 On a motion by Member Goatley, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, 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.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus 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**

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0138

three bedrooms, but only two would be used, which would allow for six guests.

- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, there are three properties with an approved Conditional Use Permit allowing short term rental that is not the primary residence of the host within 600' of the subject property and one approved owner occupied. This proposal is also owner occupied and has agreed to a condition addressing primary residence.**
- 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.
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- 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. **One parking space is available on the street and three parking spaces are available at the rear of the property.**

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0138

- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- 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.
- 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.
- 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; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0138 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is the primary residence of the owner in a Traditional Neighborhood Zoning District and Traditional Neighborhood Form District, **SUBJECT** to the following Condition of Approval:

**BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019**

PUBLIC HEARING

CASE NUMBER 19-CUP-0138

Condition of Approval:

1. The Host of record for the short term rental shall maintain her primary residence in the dwelling unit on the subject property. In the event that the Host establishes primary residence on another property, she must immediately cease conducting short term rentals on the subject property. A new conditional use permit shall be required to allow for short term rentals on the property that is not the primary residence of the Host.

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0140

Request: Conditional use permit to allow a short term rental of a duplex structure that is not the primary residence of the owner/host
Project Name: Alta Avenue Short Term Rental
Location: 2157 Alta Avenue
Owner/Applicant: Penny Saeedi
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
Case Manager: Zach Schwager, Planner I

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

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

Agency testimony:

02:39:55 Zach Schwager presented the case and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke in favor of the request:

Jeana Saeedi, 4101 S. 5th Street, Louisville, KY 40214
Manooch Saeedi, 4101 S. 5th Street, Louisville, KY 40214

Summary of testimony of those in favor:

02:41:24 Jeana Saeedi spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

02:49:06 Manooch Saeedi spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0140

The following spoke in opposition of the request:

Larry Tannheimer, 2205 Alta Ave., Louisville, KY 40205

Pam Jagers, 2042 Alta Ave., Louisville, KY 40205

Alison Cromer, 2140 Bonnycastle Ave., 1A, Louisville, KY 40205

Tiffany Fabing, 2044 Alta Ave., Louisville, KY 40205

Summary of testimony of those in opposition:

02:51:13 Larry Tannheimer spoke in opposition of the request. Mr. Tannheimer provided a hand-drawn map to the Board Members representing parking restrictions. Mr. Tannheimer spoke in regard to the parking issues and responded to questions from the Board Members (see recording for detailed presentation).

02:56:38 Pam Jagers spoke in opposition of the request. Ms. Jagers opposed on the basis of the 600 foot rule and responded to questions from the Board Members (see recording for detailed presentation).

03:03:36 Alison Cromer spoke in opposition of the request on the basis of the 600 foot rule (see recording for detailed presentation).

03:09:25 Tiffany Fabing spoke in opposition of the request (see recording for detailed presentation).

REBUTTAL:

03:12:01 Manooch Saeedi spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

03:14:42 Board Members' deliberation

03:15:05 On a motion by Vice Chair Leanhart, seconded by Member Goatley, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0140

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the request does not meet all of the listed requirements and the Conditional Use Permit cannot be approved; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0140 does hereby **DENY** Conditional Use Permit to allow short term rental of a duplex structure that is not the primary residence of the owner/host (LDC 4.2.63).

The vote was as follows:

Yes: Members Buttorff, Goatley, Vice Chair Leanhart, and Chair Howard

No: Member Turner

Absent: Member Jagoe

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0141

Request:	Conditional Use Permit for a short term rental of a dwelling unit that is not the primary residence of the owner/host
Project Name:	Schweitzer Short Term Rental
Location	1849 Yale Drive
Owner:	Nicholas Schweitzer
Representative:	Jonathan Klunk
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
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:

03:17:16 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:

Jonathan Klunk, 1372 S. 6th Street, Louisville, KY 40208

Summary of testimony of those in favor:

03:19:27 Jonathan Klunk 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:

Heather Cruikshank, 1852 Yale Drive, Louisville, KY 40205

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0141

Summary of testimony of those in opposition:

03:29:37 Heather Cruikshank spoke in opposition of the request (see recording for detailed presentation).

REBUTTAL:

03:36:06 Jonathan Klunk spoke in rebuttal (see recording for detailed presentation).

03:39:24 Board Members' deliberation

03:42:29 On a motion by Member Buttorff, seconded by Vice Chair Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that parking is inadequate, and the use is not conducive to the fabric of the neighborhood or the well-being of the neighbors; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0141 does hereby **DENY** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the owner/host in an R-5 Zoning District and Neighborhood Form District.

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, and Vice Chair Leanhart

No: Chair Howard

Absent: Member Jagoe

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0142

Request:	Conditional Use Permit for a short term rental of a dwelling unit that is not the primary residence of the owner/host
Project Name:	King Short Term Rental
Location:	120 West Ashland Avenue
Owner:	Dustin King
Representative:	Jonathan Klunk
Jurisdiction:	Louisville Metro
Council District:	21 – Nicole George
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:

03:44:53 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:

Jonathan Klunk, 1372 S. 6th Street, Louisville, KY 40208

Summary of testimony of those in favor:

03:47:51 Jonathan Klunk 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.

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0142

03:55:32 Board Members' deliberation

03:55:53 On a motion by Member Turner, seconded by Member Goatley, the following resolution, based upon the Standard of Review and Staff Analysis, the applicant's justification, 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 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.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus 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 three bedrooms that will allow a maximum number of eight guests.***

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0142

- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, within 600' of the subject property, there is one property with an approved conditional use permit allowing short term rentals that is not the primary residence of the host. The applicant is requesting relief to the provision in accordance with LDC Section 4.2.2.B. The applicant's justification for this relief is attached to this report. If the Board does not grant relief, the application does not meet all of the listed requirements and the conditional use permit cannot be approved.**
- 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.
- F. Food and alcoholic beverages shall not be served by the host to any guest.
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- 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 one on-street parking space and the applicant states that there are up to two spaces located at the rear of the site.**

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0142

- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- 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.
- 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.
- 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, 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 19-CUP-0142 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the owner/host in an R-5 Zoning District and Traditional Neighborhood Form District, with **RELIEF** from Standard 4D because the existing approved CUP is partially out of the 600 foot buffer area and there is adequate parking.

**BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019**

PUBLIC HEARING

CASE NUMBER 19-CUP-0142

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19CUP1131

Request: Modified Conditional Use Permit, Category 3 review, variance, and sidewalk waiver to allow an expansion of the existing use
Project Name: Nazareth Home Campus expansion
Location: 2002 – 2118 Payne Street
Owner/Applicant: Nazareth Home, Inc.
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
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:

03:58:54 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:

Chris Brown, 3001 Taylor Springs Drive, Louisville, KY 40220

Summary of testimony of those in favor:

04:01:14 Chris Brown spoke in favor of the request and showed a Powerpoint presentation. Mr. Brown responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19CUP1131

04:17:11 Board Members' deliberation

04:18:58 On a motion by Vice Chair Leanhart, seconded by Member Goatley, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Modified Conditional Use Permit to allow a new chapel, entrance, and parking (19CUP1131):

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

WHEREAS, the Board further finds that the proposal is compatible with the previously approved plan. This proposal will be compatible with the general character of the area including traffic, noise, dust, and lighting, and

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed and approved the proposal, and

WHEREAS, the Board further finds that:

4.2.38 Nursing Homes and Homes for the Infirm or Aged – Nursing Homes and Homes for the Infirm or Aged may be permitted in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements. There are three listed requirements for a nursing home. Items A and B will be met.

- A. All buildings shall be located at least 30 feet from any property line.
- B. One sign, not to exceed 60 square feet and six feet in height, may be placed at each of the major entrances, except in districts where larger signs are allowed.
- C. The Board of Zoning Adjustment shall add any restrictions to mitigate nuisances or adverse effects; now, therefore be it

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19CUP1131

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1131 does hereby **APPROVE** Modified Conditional Use Permit to allow a new chapel, entrance, and parking, **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 nursing facility without further review and approval by the Board.

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

04:21:10 On a motion by Vice Chair Leanhart, seconded by Member Goatley, the following resolution, based upon the Standard of Review and Staff Analysis, was adopted:

Category 3 Review (19DEVPLAN1111):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the Category 3 development plan meets or exceeds the requirements of the Land Development Code; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1131 (19DEVPLAN1111) does hereby **APPROVE** Category 3 Review.

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19CUP1131

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

04:22:31 On a motion by Vice Chair Leanhart, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, was adopted:

Variance to allow encroachment into the required front yard (19-VARIANCE-0014):

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 will need to be constructed to comply with all building codes, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since there are varying setbacks along the existing block of Payne Street, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the full pedestrian and vehicular access will be unimpeded to the site, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the encroachment is comparable to the existing setbacks along the existing block of Payne Street; and

Waiver to omit the required sidewalk along South Clifton Street (19-WAIVER-0047):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver conforms to the Comprehensive Plan and the intent of the Land Development Code with the full internal pedestrian connections being provided amongst the entire campus. Also, improvements will be made at the intersection of Payne Street and Clifton Avenue, and

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19CUP1131

WHEREAS, the Board further finds that compliance with the regulations would require construction of sidewalks along portions of South Clifton Avenue that serve as an alley for nearby residences and lacks sufficient right- of-way for the connection, and

WHEREAS, the Board further finds that the impact will be minimal since there will be existing sidewalks along Payne Street and the majority of residences fronting on Albany Avenue. Also, improvements will be made at the intersection of Payne Street and Clifton Avenue, 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 they would be forced to construct a sidewalk that would likely never connect to any useable pedestrian network since it would have a termination point near the I-64 right-of-way; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1131 does hereby **APPROVE** Variance to allow encroachment into the required front yard (19-VARIANCE-0014), and Waiver to omit the required sidewalk along South Clifton Street (19-WAIVER-0047).

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0159

Request:	Conditional use permit for a private institutional use
Project Name:	St. Agnes Catholic School
Location:	1800 Newburg Road
Owner:	Roman Catholic Bishop of Louisville
Applicant:	Karl Lentz – LJB Inc.
Jurisdiction:	Louisville Metro
Council District:	8 and 10 – Brandon Coan and Pat Mulvihill
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:

04:24:23 Zach Schwager provided copies of the plan to the Board Members. Mr. Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from Legal Counsel (see recording for detailed presentation).

The following spoke in favor of the request:

Karl Lentz, 4010 Dupont Circle, Suite 478, Louisville, KY 40207
Paul Moretti, 14602 Lake Bluff Place, Louisville, KY 40245

Summary of testimony of those in favor:

04:29:08 Karl Lentz spoke in favor of the request and showed a presentation. Mr. Lentz responded to questions from the Board Members (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0159

04:36:00 Paul Moretti 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.

04:37:14 Board Members' deliberation.

04:49:40 On a motion by Member Goatley, seconded by Vice Chair Leanhart, 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 an R-1 Zoning District:

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 public utilities and facilities. Transportation Planning and MSD have reviewed and approved the proposal, and

WHEREAS, the Board further finds that:

There are five listed requirements. Items B. and C. do not apply. Item E. is to be determined by the Board of Zoning Adjustment. 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:

- 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

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0159

and all off-street parking shall be at least 30 feet from any property line. **The applicant is requesting relief from this requirement.**

- B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated. **Item B. does not apply.**
- 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. **Item C. does not apply.**
- D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99). **The proposal will be compliant with the metro Noise Ordinance (LMCO Chapter 99).**
- 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.

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0159 does hereby **APPROVE** Conditional Use Permit to allow a private institutional use in an R-1 Zoning District, with **RELIEF** from Item A to keep the existing conditions as they have been described, 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 private institution until further review and approval by the Board.

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0159

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

04:50:54 On a motion by Member Goatley, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Waiver to not provide the required vehicular use area (VUA) landscape buffer areas (LBA):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as the subject property is mostly surrounded by a cemetery and commercial properties. The land use of the subject property is not changing, and the proposed additions are on and behind the existing principal structure, and

WHEREAS, the Board further finds that Community Form Goal 1, Policies 9 and 10 of Plan 2040 call to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements and the impacts caused when incompatible developments unavoidably occur adjacent to one another. Community Form Goal 1, Policy 12 states design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Community Form Goal 1, Policy 20 calls to mitigate adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces. Livability Goal 1, Policy 7 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The waiver request is to allow the existing parking

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0159

conditions to remain. There is no proposed development within the landscape buffer 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 they are requesting to allow the existing parking conditions to remain the same, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as they would be required to redevelop the existing parking areas, 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 19-CUP-0159 (19-WAIVER-0059) does hereby **APPROVE** Waiver to not provide the required vehicular use area (VUA) landscape buffer area (LBA).

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19CUP1037

Request: Use Permit for outdoor alcohol sales/consumption and indoor live entertainment for a restaurant in a C-1 District
Project Name: Oskar's Slider Bar
Location: 3799 Poplar Level Road
Owner: Fred Dolt
Applicants: Solheim Huot Inc., by Elizabeth and Jesse Huot
Jurisdiction: Louisville Metro
Council District: 10—Pat Mulvihill
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:

04:52:12 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:

Amanda Kranenburg, 829 E. Market St., #C, Louisville, KY 40206

Summary of testimony of those in favor:

04:56:09 Amanda Kranenburg 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.

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19CUP1037

05:04:26 Board Members' deliberation

05:05:25 On a motion by Member Buttorff, seconded by Member Goatley, the following resolution, based upon the Standard of Review and Staff Analysis, the owner's justification, and the testimony heard today, was adopted:

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

WHEREAS, the Board further finds that the proposal is compatible with surrounding uses and with the general character of the area, and

WHEREAS, the Board further finds that the proposed development is consistent with expectations for the property and does not substantially increase demands on public infrastructure and facilities. The proposal has received preliminary approval from MSD and Transportation Planning, and

WHEREAS, the Board further finds that:

Outdoor alcohol sales/consumption and indoor live entertainment for a restaurant may be permitted in the C-1 zoning district upon the granting of conditional use permit and compliance with the listed requirements:

- A. All outdoor areas for the sale and consumption of alcohol must have designated boundaries. **The site plan shows defined boundaries for the outside dining area.**
- B. Outdoor dining areas within the public right-of-way must receive approval from the agency responsible for transportation engineering and shall be designed in accordance with agency standards. **The area is not in the public right of way.**
- C. Outdoor dining areas adjacent to the public right-of-way shall contain a physical barrier that is at least three feet in height. The barrier should be designed to permit existing legal access from building to the adjacent public right-of-way. **The outdoor dining area is not adjacent to the public right-of-way and will be located between the restaurant and a parking lot.**

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19CUP1037

- D. Outdoor dining areas that include the sale and consumption of alcohol within 50 feet of a residentially zoned or used property shall provide a six foot continuous screen as part of the designated boundary for the areas of the outdoor area within 50 feet of residentially used or zoned property. The continuous screen shall be in conformance with the LDC 10.4 Implementation Standards. **The outdoor dining area is not within 50 feet of a residentially zoned or used property. However, a sketch shows a six foot high wooden privacy fence in addition to the planters.**
- E. This conditional use permit shall be limited to restaurant uses in C-1 that hold the following types of ABC licenses:
1. Restaurant liquor and wine license by the drink for 100 plus seats
 2. Restaurant wine license by the drink for restaurants with seating for 100 and receives at least 70 percent gross receipts from food sales
- F. The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 1:00 A.M.
- G. The entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).
- H. BOZA may require additional and more restrictive requirements than those listed above based on conditions at the specific location and characteristics of the specific restaurant; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1037 does hereby **APPROVE** Conditional Use Permit for outdoor alcohol sales/consumption and indoor live entertainment for a restaurant in a C-1 Zoning District (LDC 4.2.41), **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. All development shall be in accordance with the approved site plan, including all notes thereon, and with all applicable sections of the Land Development Code (LDC). No further development shall occur on the site without prior review of and approval by the Board of Zoning Adjustment (BOZA).

**BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019**

PUBLIC HEARING

CASE NUMBER 19CUP1037

2. The Conditional Use Permit shall be exercised as proscribed by KRS 100.237 within two years of BOZA approval. If it is not so exercised, the site shall not be used for outdoor alcohol sales/ consumption and indoor live entertainment for a restaurant in the C-1 zoning district without further review and approval by BOZA.

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0204

Request:	Conditional Use Permit for a private institutional use
Project Name:	Farmdale Church of the Nazarene Addition
Location:	6501 Vandre Avenue
Owner/Applicant:	Farmdale Church of the Nazarene/Lindsey Stoughton
Jurisdiction:	Louisville Metro
Council District:	23 – James Peden
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:

05:07:10 Jon Crumbie presented the case and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke in favor of the request:

Lindsey Stoughton, 816 Franklin Street, Louisville, KY 40206

Summary of testimony of those in favor:

05:10:16 Lindsey Stoughton spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

05:11:14 Board Members' deliberation

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0204

05:13:29 On a motion by Member Goatley, seconded by Member Turner, 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 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 public utilities and facilities. Transportation Planning and MSD have reviewed and approved the proposal, and

WHEREAS, the Board further finds that:

There are five listed requirements and item A., D. will be met. Item B. and C. do not apply. Item E. is to be determined by the Board of Zoning Adjustment. 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:

- 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 proposal is not adjacent to an existing residential use or residential zoning district.**
- B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated. **Item B. does not apply.**
- 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. **Item C. does not apply.**

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

PUBLIC HEARING

CASE NUMBER 19-CUP-0204

- D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99). **The proposal will be compliant with the metro Noise Ordinance (LMCO Chapter 99).**
- 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, now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0204 does hereby **APPROVE** Conditional Use Permit to allow a private institutional use in an R-4 Zoning District, **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.
3. The applicant shall submit a Minor Subdivision Plat application to Planning & Design services for review and approval to shift the 30 ft. building limit line along Vandre Avenue. The approved minor plat shall be recorded with the Jefferson County Clerk prior to issuance of a building permit for the drive-through canopy.

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

BOARD OF ZONING ADJUSTMENT MINUTES
November 4, 2019

The meeting adjourned at approximately 6:35 p.m.

Chair

Secretary