

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

May 20, 2019

A meeting of the Louisville Metro Board of Zoning Adjustment was held on May 20, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Dwight Young, Chair
Rosalind Fishman, Vice Chair
Kimberly Leanhart, Secretary
Lester Turner, Jr.
Lula Howard
Richard Buttorff (left at approximately 4:07 p.m.)

Members Absent:

Lindsey Jagoe

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Jon Crumbie, Planning & Design Coordinator
Steve Hendrix, Planning & Design Coordinator
Joel Dock, Planner II
Zach Schwager, Planner I
Jay Lockett, Planner I
Travis Fiechter, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

MAY 6, 2019 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:01:54 On a motion by Member Howard, seconded by Member Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on May 6, 2019.

The vote was as follows:

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

Absent: Member Jagoe

BOARD OF ZONING ADJUSTMENT MINUTES
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BUSINESS SESSION

CASE NUMBER 19CUP1073

Request:	Modified conditional use permit
Project Name:	Norton Cancer Institute
Location:	4955 Norton Healthcare Blvd
Owner:	Norton Hospitals, Inc.; McMahan Holdings, LLC
Applicant:	Norton Hospitals, Inc.
Jurisdiction:	Louisville Metro
Council District:	16 – Scott Reed
Case Manager:	Joel P. Dock, AICP, Planner II

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

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

Agency testimony:

00:03:06 Joel Dock presented the case and showed the site plan (see recording for detailed presentation).

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition of the request:

No one spoke.

00:04:22 Board Members' deliberation

00:04:26 On a motion by Vice Chair Fishman, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, was adopted:

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CASE NUMBER 19CUP1073

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with applicable Land use and Development Policies of Plan 2040 as safe pedestrian connectivity to encourage pedestrian mobility within the development is being provided, and

WHEREAS, the Board further finds that the proposal is compatible with the surrounding land uses as previously determined BOZA in its approval of case 16CUP1028, and

WHEREAS, the Board further finds that the Metropolitan Sewer District and Transportation Planning have approved the proposal, and

WHEREAS, the Board further finds that:

4.2.29 Hospitals, Clinics, and Other Medical Facilities Facilities requiring a Certificate of Need issued by the Commonwealth of Kentucky, including hospitals, clinics, and other medical facilities, may be allowed in any district upon the granting of a Conditional Use Permit and compliance with the listed requirements. There are two listed requirements and all will be met.

A. Signs - One freestanding sign, not to exceed 80 square feet in area or 10 feet in height, may be placed at each of the major entrances, except in districts where signs are allowed. Attached signs may be located at any height. The Board shall determine the size of all attached signs.

B. All buildings and structures shall be at least 30 feet from any property line.

The conditional use permit was approved October 19, 2016; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1073 does hereby **APPROVE** Modified Conditional Use Permit.

The vote was as follows:

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

Absent: Member Jagoe

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BUSINESS SESSION

CASE NUMBER 19CUP1097

Request: Modified Conditional Use Permit to allow the applicant more than 60 days to register with Develop Louisville.
Project Name: McMichael Short Term Rental
Location: 110 West Ormsby Avenue
Owner/Applicant: Jeff and Ann McMichael
Jurisdiction: Louisville Metro
Council District: 6 – David James
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:

00:05:38 Jon Crumbie presented the case and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

No one spoke.

The following spoke in opposition of the request:

No one spoke.

00:07:49 Board Members' deliberation

00:08:57 On a motion was made by Vice Chair Fishman, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the presentation, was adopted:

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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 four individuals. **The applicant states that unit one has one bedroom that will allow a maximum number of six guests. The applicant states that unit two has three bedrooms that will allow a maximum number of ten guests.**
- D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted.
- E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.
- F. Outdoor signage which identifies the short term rental is prohibited.
- G. There shall be a sufficient amount of parking available for the host and guests, as determined by the Board of Zoning Adjustment. The amount and

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location of parking shall be based on the land uses and density of the immediate vicinity. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated. **The site has credit for one on-street parking space and the applicant states that up to five off-street parking spaces are located at the rear of the property.**

- H. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19VARIANCE1097, does hereby **APPROVE** Modification of the approved Conditional Use Permit to allow the applicant more than 60 days to register with Develop Louisville (the applicant has a Revenue Commission registration number), **SUBJECT** to the following Condition of Approval:

Condition of Approval:

- 1. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental with Develop Louisville and with the Louisville Metro Revenue Commission. If the short term rental is not registered with Develop Louisville and with the Revenue Commission within 30 days of May 20, 2019, then the Conditional Use Permit shall be deemed null and void.

The vote was as follows:

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

Absent: Member Jagoe

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PUBLIC HEARING

CASE NUMBER 19VARIANCE1017

Request: Variance to allow a structure to exceed the required front yard setback and associated waivers to allow parking to be located in front of the building and to allow less than the required interior landscape area

Project Name: Preston Highway Variance

Location: 3008 & 3010 Preston Highway

Owner: Winlo LLC

Representative: Mike Hill – Land Design & Development, Inc.

Jurisdiction: Louisville Metro

Council District: 21 – Nicole George

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:

00:15:54 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Kevin Young, 503 Washburn Ave., Louisville, KY 40222
Mike Hill, 503 Washburn Ave., Louisville, KY 40222

Summary of testimony of those in favor:

00:20:28 Kevin Young spoke in favor of the request and showed a Powerpoint presentation. Mr. Young responded to questions from the Board Members (see recording for detailed presentation).

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00:29:58 Mike Hill was called, but declined to speak (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

00:30:15 Board Members' deliberation

00:30:34 On a motion by Vice Chair Fishman, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, and the presentation, was adopted:

Variance from Land Development Code Section 5.2.3.D.3.a to allow a structure to exceed the required front yard setback:

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 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 there are other structures nearby that have similar setbacks, and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed structure will have a similar setback to other structures in the general vicinity in regard to infill development; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19VARIANCE1017 does hereby **APPROVE** Variance from Land Development Code Section 5.2.3.D.3.a to allow a structure to exceed the required front yard setback (**Requirement 30 ft., Request 58 ft., Variance 28 ft.**).

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The vote was as follows:

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

Absent: Member Jagoe

00:31:59 On a motion by Vice Chair Fishman, seconded by Member Howard, the following resolution, based upon the Standard of Review and Staff Analysis, and the applicant's justification, was adopted:

Waiver #1 from Land Development Code Section 5.5.1.A.3.a to allow parking to be located in front of a building in the Traditional Marketplace Corridor form district:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as the parking area is similar to other properties in the immediate vicinity, and

WHEREAS, the Board further finds that granting the requested waivers will not violate the Comprehensive Plan. The site is currently a surface parking lot so allowing parking close to Preston Highway would not be a significant change to the character of the site compared to its current configuration. The redevelopment of the site will result in significantly more landscaping than currently exists on the site, 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 even though the parking could be located behind the building, due to the infill regulations a variance would be required to encroach into the required front yard setback in order to have room for truck maneuvering due to the site constraints, and

WHEREAS, the Board further finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived by adding a 3 ft. masonry wall along Preston Highway; and

Waiver #2 from Land Development Code Section 10.2.12 to not provide the required interior landscape area (ILA):

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as the surface of the existing site is already completely impervious, and

WHEREAS, the Board further finds that the waiver does not violate specific guidelines of Plan 2040 as Livability Goal 1 Policy 38 encourages parking lot greenspace and stormwater management standards that enhance the communitywide tree canopy and minimize surface runoff. The applicant is providing 402 sq. ft. of ILA and 691 sq. is required. There are three other areas that provide interior landscaping that do not meet the 290 sq. ft. minimum. If these were taken into account, the requirement would be met, 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 providing landscaped areas that do not meet the minimum size requirement for ILA, and

WHEREAS, the Board further finds that the strict application of the provisions would deprive the applicant of the reasonable use of the land as they are providing more pervious area than the existing conditions on the property; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment, in Case Number 19VARIANCE1017, does hereby **APPROVE** Waiver #1 from Land Development Code Section 5.5.1.A.3.a to allow parking to be located in front of a building in the Traditional Marketplace Corridor form district, and Waiver #2 from Land Development Code Section 10.2.12 to not provide the required interior landscape area (ILA).

The vote was as follows:

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

Absent: Member Jagoe

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PUBLIC HEARING

CASE NUMBER 18CUP1172

Request: Conditional Use Permit for a short-term rental of a dwelling unit that is not the primary residence of the host
Project Name: Snyder Short Term Rental
Location: 2808 Yorkshire Boulevard
Owner/Applicant: David Snyder
Jurisdiction: Louisville Metro
Council District: 26 – Brent Ackerson
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:

00:34:55 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

David Snyder, 974 Breckenridge Ln., #156, Louisville, KY 40207

Summary of testimony of those in favor:

00:39:24 David Snyder spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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00:44:35 Board Members' deliberation

00:45:02 On a motion by Vice Chair Fishman, seconded by Member Buttorff the following resolution, based upon the Standard of Review and Staff Analysis, and the presentation, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal does not conflict with Comprehensive Plan policies, and

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

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

WHEREAS, the Board further finds that:

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

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

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- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **Staff states that there are no other approved short term rental conditional use permits within 600 feet.**

- 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. **Parking is located along the existing driveway that will accommodate five cars. Also, there is a 2 ½ car garage at the rear of the property that will accommodate two cars. The site has credit for one on-street parking space.**

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

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- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief.
- 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 18CUP1172 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 Neighborhood Form district, **SUBJECT** to the following Condition of Approval:

Condition of Approval:

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

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The vote was as follows:

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

Absent: Member Jagoe

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PUBLIC HEARING

CASE NUMBER 19VARIANCE1040

Request:	Variances for setback
Project Name:	Hurstbourne Town Center
Location:	101 Whittington Parkway
Owner:	Viking Partners Hurstbourne
Applicant:	Viking Partners Hurstbourne
Jurisdiction:	Louisville Metro
Council District:	18 – Marilyn Parker
Case Manager:	Joel P. Dock, AICP, Planner II

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

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

Agency Testimony:

00:47:11 Joel Dock presented the case and showed a Powerpoint presentation. Mr. Dock responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223
Kevin Young, 503 Washburn Ave., Louisville, KY 40222

Summary of testimony of those in favor:

00:58:20 Nick Pregliasco spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

01:10:54 Kevin Young responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 19VARIANCE1040

The following spoke in opposition of the request:

No one spoke.

01:13:07 Board Members' deliberation

01:13:29 On a motion by Vice Chair Fishman, seconded by Member Turner, the following resolution, based upon the Standard of Review and Staff Analysis, the presentation, and the discussion, was adopted:

Variance from Land Development Code Section 5.2.4.C.3.a for building on Tract 5 to exceed the 15' SSY as shown on the development plan:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variances will not adversely affect public health, safety, or welfare as the proposed structures do not impact the safe movement of vehicles or pedestrians, have sufficient pedestrian and vehicular connectivity, and are oriented around a central focal point, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposed buildings are oriented towards the central roadway serving uses internally, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the structures do not impact the safe movement of vehicles or pedestrians, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the Town Center form district calls for structures to be oriented towards the public roadway or central focal point. The structures are internally oriented towards a central roadway and have a high level of connectivity, and

WHEREAS, the Board further finds that the requested variance does arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the site is being wholly redeveloped from the previous uses which did not meet the standards established for the form district, and

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CASE NUMBER 19VARIANCE1040

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as the developer would not be able to develop as they see fit, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as appropriate relief is being requested from the Board of zoning Adjustment; and

Variance from Land Development Code Section 5.5.1.A.2 for building on Tract 6 to not be built to the corner and at the right-of-way lines as shown on the development plan:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variances will not adversely affect public health, safety or welfare as the additional setback requested along the right-of-way of two major arterial roadways in a suburban area allows for the safe provision of pedestrian space, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the additional setback requested along the right-of-way of two major arterial roadways in a suburban area allows for the safe provision of pedestrian space, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as no impact to the safe movement of pedestrians or vehicles is being created, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the additional setback requested along the right-of-way of two major arterial roadways in a suburban area allows for the safe provision of pedestrian space, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as all development in the form is required to comply with the regulation for which relief is sought, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land as the developer would not be able to develop as they see fit, and

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WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as appropriate relief is being requested from the Board of zoning Adjustment; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19VARIANCE1040 does hereby **APPROVE** Variance from Land Development Code Section 5.2.4.C.3.a for building on Tract 5 to exceed the 15' SSY as shown on the development plan, and Variance from Land Development Code Section 5.5.1.A.2 for building on Tract 6 to not be built to the corner and at the right-of-way lines as shown on the development plan.

The vote was as follows:

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

Absent: Member Jagoe

01:15:14 Meeting was recessed.

01:15:38 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 19VARIANCE1026

Request: Variance to allow a proposed signature entrance sign to exceed the maximum allowable sign area
Project Name: Curry Farms Sign Variance
Location: 2301 Curry Farms Dr
Owner/Applicant: Perfection Signature Builders
Jurisdiction: Louisville Metro
Council District: 19 – Anthony Piagentini
Case Manager: Jay Lockett, AICP, Planner I

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

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

Agency Testimony:

01:15:52 Jay Lockett presented the case and showed a Powerpoint presentation. Mr. Lockett responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Nathan Wright, 5151 Jefferson Blvd., Louisville, KY 40219
Rich Heareth, 16912 Aiken Rd., Louisville, KY 40245

Summary of testimony of those in favor:

01:22:13 Nathan Wright spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

01:27:21 Jay Lockett responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 19VARIANCE1026

01:28:02 Mr. Wright continued his presentation and responded to questions from the Board Members (see recording for detailed presentation).

01:29:48 Rich Heareth spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

01:32:57 Board Members' deliberation

01:41:30 On a motion by Member Leanhart, seconded by Member Buttorff, the following resolution, based upon the applicant's justification, the presentation, and the Board's findings on the Standard of Review, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that allowing the square footage of the signs to exceed 15 s.f. will not adversely affect the public health, safety or welfare because the signs are unique and attractive, yet they are not distracting and are larger and easier to read. This improves wayfinding which in turn may improve safety, and

WHEREAS, the Board further finds that allowing the signs to be larger allows the uniqueness and creativeness of this type of development to be shown through. The signs are based on traditional stone fences typically found near Kentucky Farms. This gives a new approach on a traditional design and will blend nicely within a rural community, and

WHEREAS, the Board further finds that these signs are not distracting and do not have rotating messages nor flashing lights. They have no speakers nor "in your face" techniques to grab attention. They are subtle yet bold. Therefore they will not be a hazard or a nuisance, and

WHEREAS, the Board further finds that this variance is not unreasonable because similar variances have been granted in the vicinity and along Aiken Road. These signs are subtle signs and do not have flashing or alternating lights; the size will not cause distracted driving or obstructed views, and

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WHEREAS, the Board further finds that because of the positioning of the entrance and the flow of traffic the main sign needs to be larger in order to make up for the fact the 2 signs are not clearly visible, and

WHEREAS, the Board further finds that only allowing the signs to be 15 s.f. each deprives the applicant of utilizing creatively designed signage to showcase the development. This development is a unique development type that is being utilized across the country, and

WHEREAS, the Board further finds that the applicant is seeking permission to have the signs exceed 15 s.f. because of the positioning of the entrance and the flow of traffic the main sign larger in order to make up for the fact the 2 signs are not clearly visible; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19VARIANCE1026 does hereby **APPROVE** Variance from Land Development Code Section 4.4.3.B.6 to allow a signature entrance sign to exceed 15 SF by approximately 12 SF.

The vote was as follows:

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

No: Chair Young

Absent: Member Jagoe

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PUBLIC HEARING

CASE NUMBER 19VARIANCE1029

Request: Variance to allow a proposed addition to encroach into the required rear yard setback
Project Name: Bardstown Road Variance
Location: 1200 Bardstown Road
Owner/Applicant: Kevin Bryan – Bigger Is Better, 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:

01:43:27 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:

Ben Palmer-Ball, 8203 Old Westport Road, Louisville, KY 40222
Kevin Bryon, 961 Schiller Ave., Louisville, KY 40204 (sworn in, but did not speak)

Summary of testimony of those in favor:

01:48:55 Ben Palmer-Ball spoke in favor of the request and referred to the site plan. Mr. Palmer-Ball responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:

Herman Praszkiel, 1646 Lucia Ave., Louisville, KY 40204

Summary of testimony of those in opposition:

01:55:12 Herman Praszkiel spoke in opposition of the request. Mr. Praszkiel asked that a survey, certified by a surveyor which actually has the markings of the pipes in the ground, which the site plan does not, be made as an exhibit to the application for this variance by the applicant. Mr. Praszkiel asked that there be a condition requiring the back door be for egress only. Mr. Praszkiel responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

02:07:27 Ben Palmer-Ball spoke in rebuttal and referred to the elevations. Mr. Palmer-Ball responded to questions from the Board Members (see recording for detailed presentation).

02:12:52 Mr. Praszkiel responded to questions from the Board Members (see recording for detailed presentation).

02:14:35 Board Members' deliberation

02:19:21 On a motion by Vice Chair Fishman, seconded by Member Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, the discussion, and the presentation, 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 there is no public access to the rear of the property, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the proposed renovations have received Overlay approval, and

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WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed encroachment is into a rear yard with no alley and no public access, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed addition is setback further from the previously approved variance, and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the lot is smaller than the majority of the surrounding lots on Bardstown Road, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant by rendering the needed expansion of the existing building infeasible, while protecting a rear yard that does not abut an alley, and

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19VARIANCE1029 does hereby **APPROVE** Variance from Land Development Code Table 5.2.3.D.3.c to allow a structure to encroach into the required rear yard setback at its closest point as shown in the development plan **(Requirement 5 ft., Request 2 ft., Variance 3 ft.)**, **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. The applicant must obtain a parking waiver or a joint parking agreement prior to construction plan approval.
2. The back stairs shall be used for egress only.

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CASE NUMBER 19VARIANCE1029

The vote was as follows:

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

Absent: Member Jagoe

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PUBLIC HEARING

CASE NUMBER 19VARIANCE1030

Request: Variance to allow an existing sign to exceed the allowable height and area in the Suburban Marketplace Corridor form district

Project Name: Dixie Highway Variances

Location: 5138 Dixie Highway

Owner: Dixie PF Real Estate LLC

Applicant: Lester Lemasters – Commonwealth Sign Co.

Jurisdiction: Louisville Metro

Council District: 12 – Rick Blackwell

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:

02:21:34 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Cliff Ashburner, 101 S. 5th Street, Louisville, KY 40202

Summary of testimony of those in favor:

02:24:48 Cliff Ashburner spoke in favor of the request and showed a Powerpoint presentation. Mr. Ashburner responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

02:38:43 Board Members' deliberation

02:38:53 On a motion by Member Turner, seconded by Member Howard, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Variance #1 from Land Development Code Table 8.3.2 to allow a sign to exceed the allowable height in the Suburban Marketplace Corridor form district:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance to exceed the maximum height will not adversely affect the public health, safety, or welfare as the existing sign is nonconforming in that it currently exceeds the height allowance and has caused no known adverse effects, and

WHEREAS, the Board further finds that the requested variance to exceed the maximum height will not alter the essential character of the general vicinity as there are other signs of similar height along this portion of Dixie Highway, and

WHEREAS, the Board further finds that the requested variance to exceed the maximum height will not cause a hazard or nuisance to the public as the sign will not obstruct views for drivers or pedestrians, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the sign is similar in height to other signs in the general vicinity, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do apply to land in the general vicinity or the same zone because the subject property is similar in size and use to other surrounding properties, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or

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create an unnecessary hardship on the applicant because the applicant would have to take down the existing legally nonconforming sign, and

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

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

Variance #2 from Land Development Code Table 8.3.2 to allow a sign to exceed the allowable area in the Suburban Marketplace Corridor form district:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance to exceed the maximum area will not adversely affect the public health, safety or welfare as the existing sign is nonconforming in that it currently exceeds the area allowance and has caused no known adverse impacts, and

WHEREAS, the Board further finds that the requested variance to exceed the maximum area will not alter the essential character of the general vicinity as there are other signs of similar size along this portion of Dixie Highway, and

WHEREAS, the Board further finds that the requested variance to exceed the maximum area will not cause a hazard or nuisance to the public as the sign will not obstruct views for drivers or pedestrians, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the sign is similar in size to other signs in the general vicinity, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do apply to land in the general vicinity or the same zone because the subject property is similar in size and use to other surrounding properties, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or

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create an unnecessary hardship on the applicant because the applicant would have to take down the existing legally nonconforming sign, and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not begun construction, 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 19VARIANCE1030 does hereby **APPROVE** Variance #1 from Land Development Code Table 8.3.2 to allow a sign to exceed the allowable height in the Suburban Marketplace Corridor form district (**Requirement 24 ft., Request 29 ft. 10 in., Variance 5 ft. 10 in.**), and Variance #2 from Land Development Code Table 8.3.2 to allow a sign to exceed the allowable area in the Suburban Marketplace Corridor form district (**Requirement 100 sq. ft., Request 188.68 sq. ft., Variance 88.68 sq. ft.**).

The vote was as follows:

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

No: Member Leanhart

Absent: Member Jagoe

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PUBLIC HEARING

CASE NUMBER 19VARIANCE1032

Request: Variance to allow a proposed carport to encroach into the required side yard setback
Project Name: Peterson Avenue Variance
Location: 122 S. Peterson Avenue
Owner/Applicant: Tim Allen
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
Case Manager: Zach Schwager, Planner I

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

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

Agency testimony:

02:41:39 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Tim Allen, 122 S. Peterson Ave., Louisville, KY 40206

Summary of testimony of those in favor:

02:44:20 Tim Allen spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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PUBLIC HEARING

CASE NUMBER 19VARIANCE1032

02:49:29 Board Members' deliberation

02:49:38 On a motion by Member Howard, 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 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 is comparable to the parking areas of the neighboring parcels, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the addition is similar to the neighboring parking areas, 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 side yard setback; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19VARIANCE1032 does hereby **APPROVE** Variance from Land Development Code Table 5.2.2 to allow an addition to encroach into the required side yard setback (**Requirement 3 ft., Request 6 in., Variance 2 ft. 6 in.**).

The vote was as follows:

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

No: Vice Chair Fishman

Absent: Member Jagoe

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PUBLIC HEARING

CASE NUMBER 19VARIANCE1031

Request: Variance to allow a private yard area to be less than the required 30% of the area of a lot
Project Name: Bonnycastle Avenue Variance
Location: 2014 Bonnycastle Avenue
Owner/Applicant: Glen & Christy Nash
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:

02:51:05 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Glen Nash, 2014 Bonnycastle Ave., Louisville, KY 40205

Summary of testimony of those in favor:

02:54:38 Glen Nash spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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PUBLIC HEARING

CASE NUMBER 19VARIANCE1031

02:56:38 Board Members' deliberation

02:56:56 On a motion by Vice Chair Fishman, seconded by Member Howard, the following resolution, based upon the Standard of Review and Staff Analysis, the presentation, 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 addition will 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 proposed accessory structure will be similar in scale to other structures in the general vicinity, and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the majority of the required private yard area will still be intact, and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone because the lot is similar in shape and size to other lots in the area, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because most of the private yard area will be intact, and

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

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CASE NUMBER 19VARIANCE1031

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19VARIANCE1031 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of a lot (**Requirement 2,655 sq. ft., Request 2,250 sq. ft., Variance 405 sq. ft.**).

NOTE: Member Buttorff left at approximately 4:07 p.m.

The vote was as follows:

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

Absent: Members Jagoe, and Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

CASE NUMBER 19NONCONFORM1012

Request: Change in nonconforming use
Project Name: Bonnycastle Avenue Change in Nonconformance
Location: 2014 Bonnycastle Avenue
Owners/Applicants: Glenn and Christy Nash
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
Case Manager: Chris French, AICP, Planning and Design Supervisor

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:

02:58:25 Chris French presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Glen Nash, 2014 Bonnycastle Ave., Louisville, KY 40205

Summary of testimony of those in favor:

03:01:11 Glen Nash responded to an additional question from Legal Counsel (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

03:01:59 Board Members' deliberation

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PUBLIC HEARING

CASE NUMBER 19NONCONFORM1012

03:02:08 On a motion by Vice Chair Fishman, seconded by Member Howard, the following resolution, based upon the Standard of Review and Staff Analysis, and the presentation, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposed nonconforming use is in the same classification since the number of residential dwelling units is not proposed to change, and

WHEREAS, the Board further finds that the proposed nonconforming use configuration is no more odious or offensive to surrounding property owners because the intensity of the use is not proposed to change only the configuration of the use; two units in the principal structure and one unit in the accessory structure instead of three units within the principal structure; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19NONCONFORM1012 does hereby **APPROVE** Change in Nonconforming Use.

The vote was as follows:

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

Absent: Members Jagoe, and Buttorff

03:03:20 Meeting was recessed.

03:03:49 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 17CUP1078

Request: **THIS CASE HAS BEEN WITHDRAWN**
Conditional Use Permit for Transitional Housing
Project Name: Spirit House
Location: 3935 Bank Street
Owner/Applicant: Carolyn Berkley
Jurisdiction: Louisville Metro
Council District: 5 – Donna Purvis
Case Manager: Beth Jones, AICP, Planner II

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.

NOTE: This case was WITHDRAWN. Therefore, no vote or action was taken.

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PUBLIC HEARING

CASE NUMBER 18CUP1199

Request: Conditional Use Permit for a short term rental unit that is not the primary residence of the host
Project Name: Short Term Rental
Location: 900 Texas Avenue
Owner/Applicant: Katy Ashford, LLC by Eric Carrico, Manager
Representative: John Talbott
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:

03:04:13 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:

John Talbott, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223
Eric Carrico, PE, 8700 Oldbury Place, Louisville, KY 40222

Summary of testimony of those in favor:

03:09:36 John Talbott spoke in favor of the request and reviewed the justification for the CUP, including nonconforming use. Mr. Talbott responded to questions from the Board Members (see recording for detailed presentation).

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CASE NUMBER 18CUP1199

03:24:32 Joe Haberman, Planning & Design Manager, and Travis Fiechter, Legal Counsel, spoke in regard to nonconforming use (see recording for detailed presentation).

03:26:51 Mr. Talbott continued his presentation and responded to questions from the Board Members (see recording for detailed presentation).

03:34:10 Eric Carrico 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:

Matthew Gorman, 927 Texas Ave., Louisville, KY 40217

Becky Gorman, 927 Texas Ave., Louisville, KY 40217

Summary of testimony of those in opposition:

03:37:22 Matthew Gorman spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

03:40:21 Becky Gorman spoke in opposition of the request. Ms. Gorman stated she is concerned about the non-host short term rentals and their proximity to them. Ms. Gorman stated they are sort of sandwiched in between those two short term rentals (one on Keswick, and this one). Ms. Gorman stated she fears it is changing the dynamic of their neighborhood. Due to technical difficulties, Ms. Gorman repeated some of her testimony (see recording for detailed presentation).

REBUTTAL:

03:44:58 John Talbott spoke in rebuttal (see recording for detailed presentation).

03:47:38 Board Members' deliberation

04:04:23 Public Hearing was reopened to allow Mr. Talbott an opportunity to answer a question from Chair Young regarding parking (see recording for detailed presentation).

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CASE NUMBER 18CUP1199

04:05:51 Board Members' deliberation

04:11:01 On a motion by Member Howard, 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. 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 applicant**

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states that the residence has four bedrooms which will 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, within 600' of the subject property, there is one property with an approved Conditional Use Permit allowing short term rental that is not the primary residence of the host. The applicant will need to request relief to this provision in accordance with LDC Section 4.2.2.B. 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. **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

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parking shall be based on the land uses and density of the immediate vicinity. **The site has credit for two on-street parking spaces along Texas Avenue and approximately six parking credits along Alexander Avenue, (the preferred side for parking as per Neighborhood Meeting).**

- 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 18CUP1199 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling that is not the primary residence of the host in an R-5 Zoning District and Traditional Neighborhood form district, granting **RELIEF** from Item D based upon the distance of 500 feet more or less from the previously approved

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CUP that this 500 feet distance is not an adverse impact on the area that encompasses the 600 foot rule.

The vote was as follows:

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

Absent: Members Jagoe, and Buttorff

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PUBLIC HEARING

CASE NUMBER 18CUP1173

Request:	Conditional Use Permit for a short-term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Wallace Short Term Rental
Location:	775 Goullon Court
Owner:	James Wallace
Applicant:	Sonya Gugliotta
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
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.

The following spoke in favor of the request:

James Wallace, 775 Goullon Court, Louisville, KY 40204

Summary of testimony of those in favor:

04:14:34 James Wallace was allowed to speak first in this case as he was trying to decide whether or not to proceed. Joe Haberman stated there is another case on the agenda after Mr. Wallace's two cases, so if the Chair wanted, that case could be heard first to allow Mr. Wallace an opportunity to make his decision (see recording for detailed presentation).

04:15:43 Chair Young called the last case on the docket at this time (see page 57 of these minutes).

04:26:32 Chair Young recalled this case.

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04:26:50 Travis Fiechter, Legal Counsel, stated considering these are the last two cases on the docket and they have the same owner/applicant and we have a rule relating to the distance of other CUP's, it may be appropriate to allow the applicant to switch the order of the cases if he has a preference on which one may be negatively weighted should one be granted.

04:27:19 Joe Haberman stated he would also support that because staff didn't order them at the applicant's preference, staff ordered them based on when they were formally submitted. The applicant chose to have this case heard first (see recording for detailed presentation).

Agency Testimony:

04:28:04 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

James Wallace, 775 Goullon Court, Louisville, KY 40204
Abby Fowler, 770 Goullon Court, Louisville, KY 40204
Frank Gugliotta, 515 W. 8th Street, Bicknell, IN 47512

Summary of testimony of those in favor:

04:33:13 James Wallace spoke in favor of the request (see recording for detailed presentation).

04:41:13 Abby Fowler spoke in favor of the request (see recording for detailed presentation).

04:44:01 Frank Gugliotta spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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CASE NUMBER 18CUP1173

04:46:05 Board Members' deliberation

04:51:11 On a motion by Member Leanhart, seconded by Member Howard, 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, and

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

WHEREAS, the Board further finds that:

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

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

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- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, within 600' of the subject property, there is 1 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. If provided, 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. In addition, the applicant has another CUP case for a short term rental on this meeting agenda (18CUP1174) which is directly behind this property. Approval of this CUP would add a second CUP within 600 feet of the 18CUP1174 site.**
- 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.

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- 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 two on-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.
- 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 18CUP1173 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-6 Zoning District and Traditional Neighborhood Form District, granting **RELIEF** from Item D, based on the distance and conditions of the neighborhood and the

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applicant's justification on page 9 of 9 of the Staff Report, in regard to the 600 foot buffer.

The vote was as follows:

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

Absent: Members Jagoe, and Buttorff

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PUBLIC HEARING

CASE NUMBER 18CUP1174

Request:	Conditional Use Permit for a short-term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Wallace Short Term Rental
Location:	772 Goullon Court
Owner:	James Wallace
Applicant:	Sonya Gugliotta
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
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:

04:54:01 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:

James Wallace, 775 Goullon Court, Louisville, KY 40204
Abby Fowler, 770 Goullon Court, Louisville, KY 40204

Summary of testimony of those in favor:

04:56:22 James Wallace spoke in favor of the request (see recording for detailed presentation).

05:00:21 Abby Fowler spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

05:01:47 Board Members' deliberation

05:08:37 On a motion by Member Leanhart, 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 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 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

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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 less than two acres. The applicant states that the residence has three bedrooms that will allow a maximum number of eight quests.**

- 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 1 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. If provided, 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. In addition, the applicant has another CUP case for a short term rental on this meeting agenda (18CUP1173) which is directly behind this property. That case precedes this case on the agenda. Approval of 18CUP1173 would add a second CUP within 600 feet of this 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.

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- 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 two on-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.
- 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

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RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1174 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-6 Zoning District and Traditional Neighborhood Form District, granting **RELIEF** from Item D, because it is not changing the character of the neighborhood and it is surrounded by commercial and industrial property.

The vote was as follows:

Yes: Members Howard, Turner, and Leanhart

No: Vice Chair Fishman, and Chair Young

Absent: Members Jagoe, and Buttorff

NOTE: An additional agenda item was added; see page 61 for details.

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CASE NUMBER 18CUP1217

Request: Conditional Use Permit for short term rental of a dwelling unit not the primary residence of the host
Project Name: River Road Short Term Rental
Location: 5711 River Road
Owner/Applicant/Host: PLM Properties
Jurisdiction: Louisville Metro
Council District: 16 – Scott Reed
Case Manager: Beth Jones, AICP, Planner II

NOTE: This case was heard out of order, prior to Item #15 on the agenda.

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:

04:16:13 Joe Haberman presented the case on behalf of the Case Manager and showed a Powerpoint presentation. Mr. Haberman responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Paul Masterson, 5637 Juniper Beach Rd., Prospect, KY 40059

Summary of testimony of those in favor:

04:21:35 Paul Masterson spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

04:23:28 Board Members' deliberation

04:23:45 On a motion by Member Leanhart, seconded by Vice Chair Fishman, 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 proposed use 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 proposed use 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.

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- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **According to the applicant, there are three bedrooms; LDC regulations permit up to 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 shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **The site is not within 600 ft. of any property currently approved for short term rental.**
- 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

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vicinity. **A paved parking area and a driveway can accommodate up to six vehicles. Guests will not have access to the garage and on-street parking is not permitted.**

- 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 18CUP1217 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).

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The vote was as follows:

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

Absent: Members Jagoe, and Buttorff

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04:26:32 Chair Young recalled Case Number 18CUP1173 (see page 46 of these minutes).

Prior to adjournment, Joe Haberman stated at the last meeting we had a Variance where the motion was to approve; that motion failed, and then we moved on to the next item. Mr. Haberman stated in retrospect, staff feels that maybe we should have done a motion to the alternative to make sure we had a majority for two reasons; one, it is better that the motion was agreed upon, and second, the staff findings were to support that variance so the Board would have had to make some alternative findings. Mr. Haberman stated what he would ask the Board to do is under their Reconsideration Policy which is in the By-laws, at the next meeting, which is this meeting, to ask staff to docket something. Mr. Haberman stated it could be Business Session. Mr. Haberman stated when the case is reconsidered a motion can be made one way or the other that has a majority behind it so it's more solid legal footing. Mr. Haberman stated it has to be somebody that voted in a prevailing manner, and technically we didn't have a prevailing manner so he would interpret that to be people that voted against the motion. Chris French provided the Board Members with the names of the Members who voted against the motion. Mr. Haberman stated one of those members could make the motion to reconsider it, then everybody can vote for whether or not they want to relook at this (see recording for detailed presentation).

Request:	Variance to allow an existing deck to encroach into the rear and side yard setbacks
Project Name:	Longest Avenue Variance
Location:	2311 Longest Avenue
Owner/Applicant:	Michael Allen – LAC Real Estate, LLC
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Zach Schwager, Planner I

05:14:20 A motion was made by Vice Chair Fishman, seconded by Board Member Turner, that Case Number 19VARIANCE1021 be **SCHEDULED FOR RECONSIDERATION** on the June 3, 2019 Board of Zoning Adjustment Business Session Agenda.

The vote was as follows:

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

Absent: Members Jagoe, and Buttorff

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The meeting adjourned at approximately 6:45 p.m.

Chair

Secretary