

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT
February 20, 2023**

A meeting of the Louisville Metro Board of Zoning Adjustment was held on February 20, 2023 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members present:

Sharon Bond, Chair
Richard Buttorff, Vice Chair
Kimberly Leanhart, Secretary
Jan Horton
Lula Howard

Members absent:

Brandt Ford
Yani Vozos

Staff Members present:

Brian Davis, Planning & Design Assistant Director
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Molly Clark, Planner II
Heather Pollock, Planner I
Amy Brooks, Planner I
Laura Ferguson, Legal Counsel
Pamela Brashear, Management Assistant

The following matters were considered:

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

APPROVAL OF MINUTES

FEBRUARY 6, 2023 BOARD OF ZONING ADJUSTMENT ANNUAL MEETING MINUTES

On a motion by Member Howard, seconded by Member Horton, the following resolution was adopted.

RESOLVED, that the Board of Zoning Adjustment does hereby **APPROVE** the annual minutes of its meeting conducted on February 6, 2023.

The vote was as follows:

YES: Members Horton, Howard, Leanhart and Bond
NOT PRESENT FOR THIS CASE: Members Ford and Vozos
ABSTAINING: Member Buttorff

FEBRUARY 6, 2023 BOARD OF ZONING ADJUSTMENT REGULAR MEETING MINUTES

On a motion by Member Howard, seconded by Member Horton, the following resolution was adopted.

RESOLVED, that the Board of Zoning Adjustment does hereby **APPROVE** the regular minutes of its meeting conducted on February 6, 2023.

The vote was as follows:

YES: Members Horton, Howard, Leanhart and Bond
NOT PRESENT FOR THIS CASE: Members Ford and Vozos
ABSTAINING: Member Buttorff

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

BUSINESS SESSION

CASE NO. 22-VARIANCE-0147

Request: Waiver of BOZA Policy 3.02.04 to allow a new application for Board action within one year of Board action on the same tract of property

Project Name: Glenview Avenue Variance

Location: 2200 Glenview Avenue

Owner/Applicant: Eron Jaber

Jurisdiction: Louisville Metro

Council District: 16 – Scott Reed

Case Manager: Amy Brook, Planner I

Discussion

00:06:44 Amy Brooks said the applicant has a revised plan (see recording for detailed presentation).

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.

A motion was made by Member Howard to grant the waiver based on Policy 3.02.04 Item 2 as the new application differs significantly from the original application. The motion failed due to lack of a 2nd.

00:11:30 Member Buttorff said there wasn't enough difference to warrant reviewing the new application (see recording for detailed presentation).

On a motion by Member Buttorff, seconded by Member Leanhart, the following resolution was adopted.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the Waiver of BOZA Policy 3.02.04 to allow a new application for Board action within one year of Board action on the same tract of property.

The vote was as follows:

YES: Members Buttorff, Leanhart and Bond
NOT PRESENT AND NOT VOTING: Members Ford and Vozos
ABSTAINING: Members Horton and Howard

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

BUSINESS SESSION

CASE NO. 23-MVARIANCE-0001

Request: A modified variance to allow a principal structure to encroach more than 30% into the required rear yard setback
Project Name: Rudy Lane Variance
Location: 623 Rudy Lane
Owner: Loretta and Kurt Showalter
Applicant: Zach Schwager
Jurisdiction: Louisville Metro
Council District: 7- Paula McCraney
Case Manager: Amy Brooks, 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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Discussion

00:14:36 Amy Brooks discussed the case summary, standard of review and staff analysis from the staff report.

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.

Modified Variance from Land Development Code section 5.4.2.A.2.a to allow a structure to encroach into the required rear yard setback

On a motion by Member Howard, seconded by Member Leanhart, the following resolution based on the Standard of Review and Staff Analysis and testimony by staff and was adopted.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Modified Variance from Land Development Code section 5.4.2.A.2.a to allow a structure to encroach into the required rear yard setback of 25 feet, request 13 feet, a variance of 12 feet, because it's an extension of an approved variance in 2019 and doesn't have a negative impact on the neighborhood.

The vote was as follows:

YES: Members Buttorff, Horton, Howard, Leanhart and Bond
NOT PRESENT AND NOT VOTING: Members Ford and Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-MCUP-0001

Project Name: River Metals Recycling
Location: 2110 Metal Ln, 2045 River Rd, 2114 Metal Ln, 2300 Metal Ln, 2255 Metal Ln, and 2601 River Green Cir.
Owner: River Metals Recycling, Inc.
Applicant: Planning Director, Office of Planning and Design Services
Jurisdiction: Louisville
Metro Council District: 4 – Jecorey Arthur
Case Manager: Chris French, AICP, Planning and Design Supervisor

Agency Testimony:

00:21:18 Chris French said the Seismic study is completed and the applicant will present the findings to the Board (see recording for detailed presentation).

The following spoke in favor of this request:

Nick Nicholson, 500 West Jefferson Street, Louisville, Ky. 40202

Summary of testimony of those in favor:

00:22:34 Nick Nicholson gave a power point presentation discussing the following: Seismic Monitoring; Vibration Monitoring Station locations; Results – 33 combustion events; and future predictions (see recording for detailed presentation).

The following spoke in opposition to this request:

Kim Swenson, 13 Arctic Springs, Jeffersonville, In. 47130
Debra Schubert, 44 Arctic Springs, Jeffersonville, In. 47130
Anthony Ray, 44 Warren Road, Louisville, Ky. 40206
Marion Kaye Thompson, 42 Warren Road, Louisville, Ky. 40206
Dave Vislisel, 45 Warren Road, Louisville, Ky. 40206

Summary of testimony of those in opposition:

00:31:28 Kim Swenson said the river doesn't absorb sounds of the shredder. She also had questions regarding an Air Study and conditions of the CUP (see recording for detailed presentation). Mr. Nicholson answered (see recording for detailed presentation).

00:40:28 Debra Schubert said in the last few years, the explosions have gotten very uncomfortable (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-MCUP-0001

00:43:00 Anthony Ray said since June of last year to present, they're averaging one explosion every 3 months. The preference would be to have no explosions or at least keep them at a minimum (see recording for detailed presentation).

00:45:36 Marion Kaye Thompson said there has been a marked improvement in recent months from the explosions. Is there a limited amount of time to encourage adherence to the process that keeps the explosions to a minimum or zero (see recording for detailed presentation)?

00:47:06 Dave Vislisel said the last 6-8 weeks there's been very little activity. The bigger explosions are unacceptable (see recording for detailed presentation).

Rebuttal:

00:52:56 Nick Nicholson said the winter months seem to be louder and more frequent, but the procedures haven't changed (see recording for detailed presentation).

Nick Nicholson discussed tracking the scrap metal to decrease the addition of hazardous materials (propane) (see recording for detailed presentation).

Deliberation:

01:08:45 Board of Zoning Adjustment deliberation.

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.

On a motion by Member Leanhart, seconded by Member Buttorff, the following resolution was adopted.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** this case to the April 10, 2023 BOZA meeting.

The vote was as follows:

YES: Members Buttorff, Horton, Howard, Leanhart and Bond
NOT PRESENT AND NOT VOTING: Members Ford and Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-APPEAL-0011

Request: Appeal of an administrative decision regarding a zoning enforcement action
Project Name: East Whitney Avenue Appeal
Location: 114 East Whitney Avenue
Owner: Glen E. Kerns
Appellant: Glen E. Kerns
Representative: Harry B. O'Donnell IV
Jurisdiction: Louisville Metro
Council District: 21 – Nicole George
Case Manager: Chris French, Planning 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 was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:13:40 Chris French said this case was continued from December 5, 2022 for 2 reasons: to allow the Zoning Enforcement Officer to be present and for the applicant to provide additional information to staff regarding non-conforming use of the property (see recording for detailed presentation).

The following spoke in favor of this request:

Harry B. O'Donnell IV, 1941 Bishop Lane, Suite 706, Louisville, Ky. 40218
Robert S. Jackman, 108 East Whitney Avenue, Louisville, Ky. 40214
Ronald Combs, 4305 South Brook Street, Louisville, Ky. 40214
Glen Kerns, 114 East Whitney Avenue, Louisville, Ky. 40214
Kevin Jones, 115 East Whitney Avenue, Louisville, Ky. 40214
Andrew Johnson, 4914 South 3rd Street, Louisville, Ky. 40214

Summary of testimony of those in favor:

01:16:03 Harry O'Donnell, attorney for Glen Kerns, submitted a handout into the record and discussed the main points. When Mr. Kerns moved into the home, it was commercially-zoned. The zoning was then changed in 1985 from C-1 to R-5 (see recording for detailed presentation).

01:29:54 Robert Jackman said he has lived at his residence for 62 years and Glen Kerns has been working on cars and helping people for a number of years (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-APPEAL-0011

01:32:38 Ronald Combs said Glen Kerns works on anyone's car, is quiet and makes the neighborhood safer by being outside quite often to keep an eye on things (see recording for detailed presentation).

01:37:10 Glen Kerns said he purchased his home in 1979 as he needed the zoning to be able to work from home. After the zoning changed, he was told he could continue his business.

Glen Kerns said working on cars is his main source of income (see recording for detailed presentation).

01:45:05 Kevin Jones said Glen Kerns is a great neighbor. There is a predatory code enforcement occurring with this property, as they keep accusing him over and over again. There needs to be more wisdom and common sense (see recording for detailed presentation).

01:49:34 Andrew Johnson said Glen Kerns taught him everything he knows about cars. There is an auto business a few houses down the street (see recording for detailed presentation).

Rebuttal:

01:54:18 Harry O'Donnell said Mr. Kerns chose his home because it was zoned specifically to allow him to live and work from there (see recording for detailed presentation).

02:01:10 Chris French said the property was originally zoned M-2, Industrial and in 1986 it was rezoned to R-5. The M-2 would have allowed auto repair on the site (see recording for detailed presentation).

02:10:50 Chris French explained the procedures for enforcement action (see recording for detailed presentation).

Deliberation:

02:14:04 Board of Zoning Adjustment deliberation.

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.

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-APPEAL-0011

Appeal of an administrative decision regarding a zoning enforcement action

On a motion by Member Howard, seconded by Member Horton, the following resolution was adopted.

WHEREAS, the Board finds, the non-conforming rights for the auto repair garage have occurred prior to the zone change in 1986 and continued to the present day.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the appeal and overturn the zoning enforcement action based on non-conforming rights.

The vote was as follows:

YES: Members Buttorff, Horton, Howard, Leanhart and Bond

NOT PRESENT AND NOT VOTING: Members Ford and Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-WAIVER-0114 & 23-VARIANCE-0114

Request: Variance to allow an addition to encroach into the side yard setback and a waiver to not provide the required landscape buffer area

Project Name: Bardstown Road Variance and Waiver

Location: 1331 Bardstown Road

Owner/Applicant: Charles Podgursky – C.R.P. & Associates, INC.

Jurisdiction: Louisville Metro

Council District: 8 – Cassie Armstrong

Case Manager: Molly Clark, 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 was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

02:39:53 Molly Clark discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Charles R. Podgursky, CRP and Associates, Inc., 7321 New LaGrange Road, Suite 111, Louisville, Ky. 40222
Robert Brugh, 207 Old Harrods Creek Road, Louisville, Ky. 40223

Summary of testimony of those in favor:

02:44:34 Charles Podgursky said they want the building to be 2-stories and the side yard to be approved as is (see recording for detailed presentation).

02:46:22 Robert Brugh said he's here to answer questions (see recording for detailed presentation).

Deliberation:

02:47:34 Board of Zoning Adjustment deliberation.

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.

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-WAIVER-0114 & 23-VARIANCE-0114

Waiver from Land Development Code Section 10.2.10.A to not provide the required 5 ft LBA between any lot containing a VUA and a non-residentially zoned lot with a first-floor residential use (22- WAIVER-0114)

On a motion by Member Leanhart, seconded by Member Buttorff, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners as there are a variety of land uses in the general vicinity. The applicant is not making any significant changes to the existing parking in the rear along the alley; and

WHEREAS, Community Form Goal 1, Policies 9 and 10 of Plan 2040 call to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements and the impacts caused when incompatible developments unavoidably occur adjacent to one another. Community Form Goal 1, Policy 12 states design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. The applicant is not making any significant changes to the existing parking in the rear along the alley. The lot is very narrow and does not allow for enough room for a landscape buffer. The area where the buffers are required are along other parking spaces of the adjacent uses; and

WHEREAS, the Board finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as they are applying for the waiver to bring the existing site conditions into compliance. The lot is very narrow and does not allow for enough room for a landscape buffer. The area where the buffers are required are along other parking spaces of the adjacent uses; and

WHEREAS, the Board further finds the strict application of the provision would deprive the applicant of the reasonable use of the land because the property is not large enough to install the required landscaping. The lot is very narrow and does not allow for enough room for a landscape buffer. The area where the buffers are required are along other parking spaces of the adjacent uses.

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-WAIVER-0114 & 23-VARIANCE-0114

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Waiver from Land Development Code Section 10.2.10.A to not provide the required 5 ft LBA between any lot containing a VUA and a non-residentially zoned lot with a first-floor residential use. (22- WAIVER-0114).

The vote was as follows:

YES: Members Buttorff, Horton, Howard, Leanhart and Bond

NOT PRESENT AND NOT VOTING: Members Ford and Vozos

Variances to allow an addition to encroach into the 6 ft side yard setback by 2.8 ft for proposed buildings constructed adjacent to an existing building which has a window (23-VARIANCE-0014)

On a motion by Member Leanhart, seconded by Member Buttorff, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all building codes, including fire codes; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as The Bardstown Road/Baxter Avenue Overlay District approved the addition; and

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

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed addition will still allow space between the proposed addition and the residential structure next door; and

WHEREAS, the requested variance does arise from special circumstances which do not generally apply to the land in the generally vicinity or the same zone as the property is very narrow in width and creates restriction in where an addition can be built; and

WHEREAS, the Board finds, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the proposed addition is in the only possible location on site; and

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-WAIVER-0114 & 23-VARIANCE-0114

WHEREAS, the Board further finds 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 has not started construction and is requesting the variance.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Variance to allow an addition to encroach into the 6-foot side yard setback by 2.8 feet for proposed buildings constructed adjacent to an existing building which has a window (23-VARIANCE-0014), requirement 6-feet, request 2.8 feet, a variance of 3.2 feet.

The vote was as follows:

YES: Members Buttorff, Horton, Howard, Leanhart and Bond
NOT PRESENT AND NOT VOTING: Members Ford and Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-VARIANCE-0119

Request: Variance to allow a private yard area to be less than the required 20% of the area of the lot; Variances to allow a primary structure to exceed the maximum front yard setback and the maximum building height

Project Name: Rear Mulberry Street Variances
Location: 917 R. Mulberry Street
Owner: MBS Remodeling LLC
Applicant: Jamie Barnes
Jurisdiction: Louisville Metro
Council District: 15 - Jennifer Chappell
Case Manager: Amy Brooks, 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 was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

02:52:14 Amy Brooks discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

James Barnes, 11723 Halifax Drive, Louisville, Ky. 40245
MatthewTyranny, 4400 O'Bannon Road SE, Elizabeth, In. 47117

Summary of testimony of those in favor:

03:01:39 Jamie Barnes said he's here to answer questions (see recording for detailed presentation).

03:02:15 MatthewTyranny said there will be 2-car garages on each side (4 vehicles). They will excavate and build the foundation (see recording for detailed presentation).

The following spoke neither for nor against the request:

Gary Liebert, 921 Mulberry Street, Louisville, Ky. 40217

Summary of testimony of those spoke neither for nor against:

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-VARIANCE-0119

03:03:53 Gary Liebert asked if all the neighbors, groups and organizations were contacted. The project is too big and out of character with the neighborhood (see recording for detailed presentation).

03:12:40 Member Leanhart is concerned about maneuvering vehicles in the alley. Member Buttorff is concerned about privacy of the neighbors and requests limiting the view from the roof-top terrace to the alley. Mr. Tyranny agreed and said he would put a privacy screen up there (see recording for detailed presentation).

Deliberation:

03:16:42 Board of Zoning Adjustment deliberation.

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.

On a motion by Member Howard, seconded by Member Horton, the following resolution was adopted.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** this case to the April 24, 2023 BOZA meeting to allow the applicant time to address concerns raised by the Board and neighbors.

The vote was as follows:

YES: Members Buttorff, Horton, Howard, Leanhart and Bond
NOT PRESENT AND NOT VOTING: Members Ford and Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-VARIANCE-0142

Request: Variance to allow a second story addition encroach into the side yard setback and a variance to allow the second story addition to exceed maximum height based on infill standards

Project Name: Rammers Avenue Variance
Location: 1209 Rammers Avenue
Owner/Applicant: Andrew Max Balliet
Jurisdiction: Louisville Metro
Council District: 6 – Phillip Baker
Case Manager: Molly Clark, 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 was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

03:30:35 Molly Clark discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Andrew Max Balliet, 1209 Rammers Avenue, Louisville, Ky. 40204

Summary of testimony of those in favor:

03:33:41 Andrew Balliet said the neighbors are in favor of the request and he is here to answer questions (see recording for detailed presentation).

Deliberation:

03:35:03 Board of Zoning Adjustment deliberation.

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.

Variance from Land Development Code section 5.2.2 to allow a second story to encroach into the required 3 ft setback.

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-VARIANCE-0142

On a motion by Member Howard, seconded by Member Leanhart, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all applicable building codes and the Land Development Code, except where relief is requested; and

WHEREAS, the existing home and surrounding homes are built to similar setbacks from side property lines; and

WHEREAS, the addition will not cause a hazard or nuisance to the public since it is required to meet all applicable requirements of the building code; and

WHEREAS, the proposed setback would not be an unreasonable circumvention of the zoning regulations because the proposed setback is consistent with the existing structure and to surrounding structures in the neighborhood; and

WHEREAS, the requested variance does arise from special circumstances which do generally apply to land in the general vicinity or the same zone because this property is located in a subdivision that was created and built before zoning regulations. The lot is the same size and shape in comparison to the surrounding properties; and

WHEREAS, the Board finds, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the subject site is a narrow lot and the applicant is restricted by the narrow lot width. The applicant is also constructing the addition over the existing 1 story building footprint and bringing the addition away from the side yard may cause issues in the construction of the structure due to the location of existing load bearing walls; and

WHEREAS, the Board further finds 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 has not begun construction.

Variance from Land Development Code section 5.1.12 to allow a second story to exceed the max height based on infill standards

WHEREAS, the requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all applicable building codes and the Land Development Code, except where relief is requested; and

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-VARIANCE-0142

WHEREAS, although along this block the neighborhood is mostly one story there are 1.5 and 2 story structures within the neighborhood along other blocks. In addition, the proposed second story addition would not exceed the maximum building height of the Traditional Neighborhood Form District; and

WHEREAS, the addition will not cause a hazard or nuisance to the public since it is required to meet all applicable requirements of the building code; and

WHEREAS, the height variance will not be an unreasonable circumvention of the zoning regulations since there are other structures in the neighborhood that are taller than 1 story and the proposed addition will meet the maximum height required for non-infill developments; and

WHEREAS, the requested variance does arise from special circumstances which do generally apply to land in the general vicinity or the same zone because this property is located in a subdivision that was created and built before zoning regulations. The lot is the same size and shape in comparison to the surrounding properties; and

WHEREAS, the Board finds, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since other 1.5 and 2 story structures exist in the neighborhood and the application of the infill standard in this situation would require a shorter home than what could normally be building in non-infill context; and

WHEREAS, the Board further finds 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 has not begun construction.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Variance from Land Development Code section 5.2.2 to allow a second story to encroach into the required 3 foot setback, requirement of 3 feet, request of 0 feet, variance of 3 feet and a Variance from Land Development Code section 5.1.12 to allow a second story to exceed the max height based on infill standards, requirement of 1-story, request of 2-stories, variance of 1-story.

The vote was as follows:

YES: Members Buttorff, Horton, Howard, Leanhart and Bond
NOT PRESENT AND NOT VOTING: Members Ford and Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-VARIANCE-0157

Request: A variance to exceed the maximum fence height in the required front yard setback
Project Name: Northwestern Parkway Fence Variance
Location: 2503 Northwestern Pkwy.
Owner: Billy and Violet Simpson
Applicant: Billy Simpson
Jurisdiction: Louisville Metro
Council District: 5- Donna Purvis
Case Manager: Amy Brooks, 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 was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

03:37:44 Amy Brooks discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Billy Simpson, 2503 Northwestern Parkway, Louisville, Ky. 40212

Summary of testimony of those in favor:

03:45:35 Billy Simpson said the fence was put up in 1992 and replaced several times. It is now in great shape (see recording for detailed presentation).

Deliberation:

03:47:32 Board of Zoning Adjustment deliberation. Reopened hearing for more testimony.

03:49:50 Billy Simpson said there are several other people with the same height fence in the area (see recording for detailed presentation).

03:57:52 Board of Zoning Adjustment deliberation.

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-VARIANCE-0157

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.

Variance from Land Development Code section 4.4.3.A.1.a.i to allow a fence to exceed 48 inches in height in the front yard setback

On a motion by Member Howard, seconded by Member Buttorff, the following resolution was adopted.

WHEREAS, the variance site plan neither appears to reference a survey nor to have been drafted by a design professional. As such, the provided plan does not reflect accurate property lines. However, the survey found within the deed shows the house to be more than 17 feet from the property line. LOJIC measurement indicate the fence is about 15.5 ft from the house which puts the fence within the property lines; and

WHEREAS, the Board finds, the strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant as the height of the proposed fence could be reduced to conform with the existing regulations or shifted out of the required 15 feet required front yard setback; and

WHEREAS, the Board further finds the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant has already constructed the fence.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the Variance from Land Development Code section 4.4.3.A.1.a.i to allow a fence to exceed 48 inches in height in the front yard setback based on photographs not showing the request for an 84-inch height fence being appropriate at this location. It appears to be totally out of character with the immediate surrounding neighborhoods on the west side, east side and across the street from the property.

The vote was as follows:

YES: Members Buttorff, Horton, Howard, Leanhart and Bond
NOT PRESENT AND NOT VOTING: Members Ford and Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-VARIANCE-0168

Request: A variance to allow an accessory structure to encroach into the front yard setback and a variance to exceed the maximum fence height in the required front yard setback

Project Name: Harmon Court Variance

Location: 3119 Harmon Court

Owner: Kelly Rodriguez Britt and Daniel Rodriguez

Applicant: Daniel Rodriguez

Jurisdiction: Louisville Metro

Council District: 10- Pat Mulvihill

Case Manager: Amy Brooks, 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 was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

04:03:49 Amy Brooks discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Daniel Rodriguez, 3119 Harmon Court, Louisville, Ky. 40213

Summary of testimony of those in favor:

04:10:00 Daniel Rodriguez said he wants the garage to keep his cars out of the elements. He discussed the materials for the garage and shed (see recording for detailed presentation).

Deliberation:

04:15:0 Board of Zoning Adjustment deliberation.

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.

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-VARIANCE-0168

Variance from the Land Development Code Table 5.3.1 to allow an accessory structure to encroach into the required front yard setback

On a motion by Member Buttorff, seconded by Member Howard, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all applicable building codes and the Land Development Code, except where relief is requested; and

WHEREAS, the requested variance would not alter the essential character of the general vicinity because the accessory structures are out of the public view from the front setback on the northeastern property line due to the existing 35 foot right of way between the subject site and the roadway. This ROW is covered with intense vegetation between the applicant's property line and Poplar Level Road; and

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

WHEREAS, the requested variance would not allow an unreasonable circumvention of the zoning regulations because accessory structures would be allowed five feet from what seemingly operates as a rear property line, if this were not a double frontage lot; and

WHEREAS, the requested variance does arise from special circumstances which do not generally apply to land in the general vicinity or the same zone. There are only a limited number of properties within this neighborhood that are subjected to double frontage regulations; and

WHEREAS, the Board finds, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as there is no room to shift the proposed garage out of the required 15 feet front yard setback; and

WHEREAS, the Board further finds the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the applicant has not started construction and has requested a variance.

Variance from Land Development Code section 4.4.3.A.1.a.i to allow a fence to exceed the maximum allowed height in a front yard setback.

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-VARIANCE-0168

WHEREAS, the requested variance will not adversely affect the public health, safety or welfare, because the fence must be constructed to with the land development code, except where relief is requested. The fence is setback far enough from the edge of pavement and any vehicle corridor as neither to impede vision clearance nor adversely impact the safe movement of vehicles or pedestrians; and

WHEREAS, the requested variance does not alter the essential character of the general vicinity as there are other wooden privacy fences along Harmon Court that exceed 48 inches within the required front yard on Poplar Level Rd.; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public because it will not adversely impact the safe movement of vehicles or pedestrians; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations since there are other fences in this block that exceed 4 feet in the front yard setback; and

WHEREAS, the requested variance does arise from special circumstances which do generally apply to land in the general vicinity or the same zone as the property is similar in size and shape as this is only of 4 houses in the subdivision that have double frontage lots that require front yard setback regulations on both Poplar Level Road and Harmon Court; and

WHEREAS, the Board finds, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the fence was already existing prior to the applicant's purchase of the property; and

WHEREAS, the Board further finds 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. The fence was not constructed by the applicant.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Variance from the Land Development Code Table 5.3.1 to allow an accessory structure to encroach into the required front yard setback, requirement 15 feet, request 5 feet, variance of 10 feet and a Variance from Land Development Code section 4.4.3.A.1.a.i to allow a fence to exceed the maximum allowed height in a front yard setback, requirement of 48 inches, request 72 inches, variance of 24 inches.

The vote was as follows:

YES: Members Buttorff, Horton, Howard and Bond

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-VARIANCE-0168

NO: Member Leanhart

NOT PRESENT AND NOT VOTING: Members Ford and Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 23-VARIANCE-0001

Request: Variance 1 to permit a freestanding sign to exceed area standards and Variance 2 to permit a freestanding sign to exceed height standards

Project Name: Freestanding Sign Variances

Location: 2935 Breckenridge Lane

Owner: Triple M Investments

Applicant: Signarama Dixie

Jurisdiction: Louisville Metro

Council District: 26 – Brent Ackerson

Case Manager: Beth Jones, 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 was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

04:18:20 Beth Jones discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Jason Brown, Signarama Dixie, 4436 Dixie Highway, Louisville, Ky. 40216

Summary of testimony of those in favor:

04:24:49 Jason Brown said the requested variance is to exceed the height in order to improve the visibility of the sign for Norton Healthcare (see recording for detailed presentation).

Deliberation:

04:27:26 Board of Zoning Adjustment deliberation.

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.

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 23-VARIANCE-0001

Variance 1 to permit a freestanding sign to exceed area standards (LDC 8.3.2 Regional Center)

On a motion by Member Buttorff, seconded by Member Howard, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone in that the applicant is adapting an existing non-conforming sign structure for a new use of the property; and

WHEREAS, strict application of the regulation would create an unnecessary hardship on the applicant in that the proposed re-use is in character with the existing development on the site and with the surrounding commercial development; and

WHEREAS, the Board finds, the special circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulations in that the variance request is being made to alter an existing sign. In addition, the overall development of the site, including the placement and height of the sign, is pre-existing; and

WHEREAS, the Board further finds the requested variance will not adversely affect the public health, safety and welfare and will not cause a hazard or a nuisance to the public in that the placement and height of the sign is pre-existing, in addition, the client is adding non-required design features that will mitigate negative impacts.

Variance 2 to permit a freestanding sign to exceed height standards (LDC 8.3.2 Regional Center)

WHEREAS, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone in that the applicant is adapting an existing non-conforming sign structure for a new use of the property; and

WHEREAS, strict application of the regulations would create an unnecessary hardship on the applicant in that the proposed re-use is in character with the existing development on the site and with the surrounding commercial development; and

WHEREAS, the Board finds, the special circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulations in that the variance request is being made to alter an existing sign. In addition, the overall

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 23-VARIANCE-0001

development of the site, including the placement and height of the sign, is pre-existing;
and

WHEREAS, the Board further finds the requested variance will not adversely affect the public health, safety and welfare and will not cause a hazard or a nuisance to the public in that the placement and height of the sign is pre-existing, in addition, the client is adding non-required design features that will mitigate negative impacts.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** Variance 1 to permit a freestanding sign to exceed area standards (LDC 8.3.2 Regional Center) and Variance 2 to permit a freestanding sign to exceed height standards (LDC 8.3.2 Regional Center), **SUBJECT** to the following Condition of Approval:

1. An opaque background is required for sign faces for all internally-illuminated sign cabinets associated with this sign structure.

The vote was as follows:

YES: Members Buttorff, Horton, Howard, Leanhart and Bond
NOT PRESENT AND NOT VOTING: Members Ford and Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-CUP-0394

Request: Conditional Use Permit to allow a transitional home in the R-6 Residential Multi-Family zoning district with a landscape waiver

Project Name: Dumesnil Transitional House
Location: 2735 Dumesnil Street
Owner: New Directions Housing Corp
Applicant: New Directions Housing Corp
Jurisdiction: Louisville Metro
Council District: 1 – Tammy Hawkins
Case Manager: Molly Clark, 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 was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

04:29:43 Molly Clark discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Kathleen Kitty McKune, New Directions Housing Corporation, 1617 Maple Street, Louisville, Ky. 40210
Kristy Flippins-Bartlett, 5112 Hunters Point Circle, Louisville, Ky. 40216

Summary of testimony of those in favor:

04:33:26 Kitty McKune read a statement of support (see recording for detailed presentation).

04:43:56 Kristy Flippins-Bartlett said she is the CEO of the treatment facility which helps homeless families. This program will actually house the homeless families and offers many additional services (see recording for detailed presentation).

Deliberation:

04:50:06 Board of Zoning Adjustment deliberation.

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-CUP-0394

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.

Waiver from section 10.2.4 of the Land Development Code to not provide the perimeter landscape buffer areas and screening adjacent to residentially zoned property (23-WAIVER-0012)

On a motion by Member Leanhart, seconded by Member Howard, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners as there are a variety of land uses in the general vicinity. The applicant is proposing to keep the residential character of the property; and

WHEREAS, Community Form Goal 1, Policies 9 and 10 of Plan 2040 call to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements and the impacts caused when incompatible developments unavoidably occur adjacent to one another. Community Form Goal 1, Policy 12 states design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. The waiver request can be justified because there are no proposed additions to the structure on the property and the property is not large enough to reasonably provide the required landscaping; and

WHEREAS, the Board finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as they are applying for the waiver to bring the existing site conditions into compliance. In order to provide the required landscape buffer width, the existing historical structure would need to be torn down; and

WHEREAS, the Board further finds the strict application of the provision would deprive the applicant of the reasonable use of the land because the property is not large enough to install the required landscaping. The applicant is also proposing to keep the residential character of the property.

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-CUP-0394

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Waiver from section 10.2.4 of the Land Development Code to not provide the perimeter landscape buffer areas and screening adjacent to residentially zoned property (23-WAIVER-0012).

The vote was as follows:

YES: Members Buttorff, Horton, Howard, Leanhart and Bond

NOT PRESENT AND NOT VOTING: Members Ford and Vozos

Conditional Use Permit to allow a transitional home in the R-6 Residential Multi-Family zoning district Land Development Code (LDC) 4.2.55 (22-CUP-0394)

On a motion by Member Leanhart, seconded by Member Howard, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the proposal meets all applicable policies of the Comprehensive Plan; and

WHEREAS, when appropriately managed, the proposed use is compatible with surrounding development and land uses; and

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

WHEREAS, the Board further finds there are 11 listed requirements and they will either be met, must be met, or need to be granted relief. Transitional Housing may be allowed in any zoning district upon the granting of a conditional use permit and compliance with the listed requirements. This section does not apply to any Transitional Housing that may be permitted with special standards pursuant to Section 4.3.14 of this Land Development Code.

A. All bedrooms and sleeping areas shall meet the current occupancy limitations required in LMCO and any applicable building, fire, or life safety code. **There are three bedrooms per unit according to the applicant. Photos of the bedrooms are attached to the agenda item. Staff has inspected the bedrooms and they meet the occupancy limitation requirements.**

B. Transitional Housing shall be a temporary housing arrangement for its residents, with stays generally being less than two (2) years. Such housing is intended to serve

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-CUP-0394

residents as they transition into permanent housing. **The applicant is aware of this requirement.**

C. Transitional Housing shall have supervision of its residents, as well as structure and support services for its residents. Nonresidential uses and services that are not accessory to the Transitional Housing use shall not be carried out unless otherwise permitted and approved as a separate use. Transitional housing that serves as recovery housing should follow best practice industry standards and operational rules such as the National Alliance for Recovery Residences (NARR) standards. **The transitional home will have staff members on site and will be providing services such as mental health treatment, case management, family reunification, life skills training and workshops, educational programs, job training and placement, medical services, mental health and substance abuse counseling, and financial literacy.**

D. When reviewing a conditional use permit application for Transitional Housing, the BOZA shall, to the best of its abilities, find that the establishment of the use will not result in harm to the health, safety, or general welfare of the surrounding neighborhood. The property on which a Transitional Housing is situated shall not be located closer than 1,000 feet (measured in a straight line from nearest property line to nearest property line) to any property on which another Commercial Boarding House, Rehabilitation Home, or Transitional Housing use that has been approved by a conditional use permit is situated. **There are no other commercial boarding houses, rehabilitation homes or transitional homes within 1,000 feet of the subject site.**

E. Transitional Housing shall meet the health, sanitation, structural, property maintenance, fire, and life safety requirements of any currently applicable federal, state, and local laws. **The applicant is aware of this requirement.**

F. No building shall be closer than 30 feet to a property line unless required to by a form district maximum setback or build-to-line. **The applicant will need relief from this requirement as the existing structure is within 30 ft. of multiple property lines. This relief is justified as these are existing site conditions and no new construction is proposed.**

G. The parking requirements for the use are set forth in Chapter 9 of this Land Development Code. The BOZA may require additional or restrict parking if warranted. **The applicant is providing off street parking, the subject property is less than 100 ft. of a TARC stop and there is available on-street parking in the area.**

H. Signage for the use is permitted in accordance with Chapter 8 of this Land Development Code. The BOZA may further restrict signage if warranted. **The applicant has not proposed any signage.**

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-CUP-0394

I. Additional Single-Family Residential Zoning District Standards (R-R, R-E, R-1, R-2, R-3, R-4, R-5, or U-N):

1. Any building shall remain or shall be constructed so that the exterior design and ornamentation is residential in character and compatible with other residential architecture in the immediate neighborhood, so that there is no evidence from the street that the use is other than residential.
2. Where such a use is permitted in a structure which has been used as a residence, the permittee shall make no substantial alterations or improvements to the structure which would impair the structure's use as a residence at a later time.
3. Off-street parking not located within a drive-way shall be located to the side or rear of the building(s). **This section does not apply.**

J. For a complete application submittal for any Transitional Housing conditional use permit, in addition to the documentation required of all conditional use permit applications, the following additional information shall be provided:

1. Type of resident population to be served, if any;
2. The proposed maximum number of residents/beds and maximum number of employees;
3. Floor plans of any building subject to the use (showing the location and dimensions of all bedrooms and sleeping areas);
4. A written statement, plans, and/or permits indicating how any building subject to the application meets or will adapted to meet all applicable building codes for the use if approved; and
5. Rules of conduct and management plan.

In the event a conditional use permit for a Transitional Housing is approved, any change to the foregoing information must be approved by the BOZA as a modification pursuant to Section 11.5A.1 of this Land Development Code. **This information has been provided by the applicant.**

K. If Transitional Housing with an approved conditional use permit is subject to two (2) or more substantiated civil and/or criminal complaints within a 12-month period, the Planning Director may request that the BOZA revoke the conditional use permit in accordance Section 11.5A.6 of this Land Development Code. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief. **The applicant is aware of this requirement.**

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-CUP-0394

L. An active license of the Transitional Housing, as required by LMCO Chapter 115, shall be maintained. No transitional housing may take place unless the license is active and in the name of the current operator and property owner. If the license is not renewed and lapses for six (6) months, or in the event of a change of ownership and/or operator, a new license is not issued within six (6) months from the date of the change, the conditional use permit shall become null and void. In order to recommence any Transitional Housing use, a new conditional use permit must be granted if required. **The applicant is aware of this requirement.**

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow a transitional home in the R-6 Residential Multi-Family zoning district Land Development Code (LDC) 4.2.55 (22-CUP-0394). The applicant will need relief from requirement F as the existing structure is within 30-feet of multiple property lines. This relief is justified as these are existing site conditions and no new construction is proposed, **SUBJECT** to the following Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a transitional home until further review and approval by the Board.
3. Prior to lawful commencement of the transitional home use the applicant shall obtain all permits and necessary approvals required by the Office of Construction Review and other governmental agencies.

The vote was as follows:

YES: Members Buttorff, Horton, Howard, Leanhart and Bond
NOT PRESENT AND NOT VOTING: Members Ford and Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-CUP-0395

Request: Conditional Use Permit to allow a transitional home in the R-6 Residential Multi-Family zoning district with a landscape waiver

Project Name: Olive Street Transitional House

Location: 1369 Olive Street

Owner: New Directions Housing Corp

Applicant: New Directions Housing Corp

Jurisdiction: Louisville Metro

Council District: 1 – Tammy Hawkins

Case Manager: Molly Clark, 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 was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

04:54:26 Molly Clark discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Kathleen Kitty McKune, New Directions Housing Corporation, 1617 Maple Street, Louisville, Ky. 40210
Kristy Flippins-Bartlett, 5112 Hunters Point Circle, Louisville, Ky. 40216

Summary of testimony of those in favor:

04:57:29 Kitty McKune said the statement of support read into the record from the previous case also applies to this case (see recording for detailed presentation).

Kristy Flippins-Bartlett said she has no further testimony for this case (see recording for detailed presentation).

Deliberation:

04:58:11 Board of Zoning Adjustment deliberation.

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-CUP-0395

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.

Waiver from section 10.2.4 of the Land Development Code to not provide the perimeter landscape buffer areas and screening adjacent to residentially zoned property. (23-WAIVER-0013)

On a motion by Member Howard, seconded by Member Leanhart, the following resolution based on the Standard of Review and Staff Analysis, testimony and evidence presented today was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners as there are a variety of land uses in the general vicinity. The applicant is proposing to keep the residential character of the property; and

WHEREAS, Community Form Goal 1, Policies 9 and 10 of Plan 2040 call to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements and the impacts caused when incompatible developments unavoidably occur adjacent to one another. Community Form Goal 1, Policy 12 states design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. The waiver request can be justified because there are no proposed additions to the structure on the property and the property is not large enough to reasonably provide the required landscaping; and

WHEREAS, the Board finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as they are applying for the waiver to bring the existing site conditions into compliance. In order to provide the required landscape buffer width, the existing historical structure would need to be torn down; and

WHEREAS, the Board further finds the strict application of the provision would deprive the applicant of the reasonable use of the land because the property is not large enough to install the required landscaping. The applicant is also proposing to keep the residential character of the property.

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-CUP-0395

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Waiver from section 10.2.4 of the Land Development Code to not provide the perimeter landscape buffer areas and screening adjacent to residentially zoned property (23-WAIVER-0013).

The vote was as follows:

YES: Members Buttorff, Horton, Howard, Leanhart and Bond

NOT PRESENT AND NOT VOTING: Members Ford and Vozos

Conditional Use Permit to allow a transitional home in the R-6 Residential Multi-Family zoning district Land Development Code (LDC) 4.2.55 (22-CUP-0395)

On a motion by Member Howard, seconded by Member Leanhart, the following resolution was adopted.

WHEREAS, the proposal meets all applicable policies of the Comprehensive Plan; and

WHEREAS, when appropriately managed, the proposed use is compatible with surrounding development and land uses; and

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

WHEREAS, the Board further finds there are 11 listed requirements and they will either be met, must be met, or need to be granted relief. Transitional Housing may be allowed in any zoning district upon the granting of a conditional use permit and compliance with the listed requirements. This section does not apply to any Transitional Housing that may be permitted with special standards pursuant to Section 4.3.14 of this Land Development Code.

A. All bedrooms and sleeping areas shall meet the current occupancy limitations required in LMCO and any applicable building, fire, or life safety code. **There are three bedrooms in one unit and 3 bedrooms in the other unit according to the applicant. Photos of the bedrooms are attached to the agenda item. Staff has inspected the bedrooms and they meet the occupancy limitation requirements.**

B. Transitional Housing shall be a temporary housing arrangement for its residents, with stays generally being less than two (2) years. Such housing is intended to serve

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-CUP-0395

residents as they transition into permanent housing. **The applicant is aware of this requirement.**

C. Transitional Housing shall have supervision of its residents, as well as structure and support services for its residents. Nonresidential uses and services that are not accessory to the Transitional Housing use shall not be carried out unless otherwise permitted and approved as a separate use. Transitional housing that serves as recovery housing should follow best practice industry standards and operational rules such as the National Alliance for Recovery Residences (NARR) standards. **The transitional home will have two staff members on site every morning and one staff member at all other times.**

D. When reviewing a conditional use permit application for Transitional Housing, the BOZA shall, to the best of its abilities, find that the establishment of the use will not result in harm to the health, safety, or general welfare of the surrounding neighborhood. The property on which a Transitional Housing is situated shall not be located closer than 1,000 feet (measured in a straight line from nearest property line to nearest property line) to any property on which another Commercial Boarding House, Rehabilitation Home, or Transitional Housing use that has been approved by a conditional use permit is situated. **There are no other commercial boarding house, rehabilitation home or transitional home within 1,000 feet of the subject site.**

E. Transitional Housing shall meet the health, sanitation, structural, property maintenance, fire, and life safety requirements of any currently applicable federal, state, and local laws. **The applicant is aware of this requirement.**

F. No building shall be closer than 30 feet to a property line unless required to by a form district maximum setback or build-to-line. **The applicant will need relief from this requirement as the existing structure is within 30 ft. of every property line. This relief is justified as these are existing site conditions and no new construction is proposed.**

G. The parking requirements for the use are set forth in Chapter 9 of this Land Development Code. The BOZA may require additional or restrict parking if warranted. **The subject property will have off-street parking, there appears to be on-street parking spaces, and the subject property is less than 400 ft. of a TARC stop at Woodlawn and s 28th Street.**

H. Signage for the use is permitted in accordance with Chapter 8 of this Land Development Code. The BOZA may further restrict signage if warranted. **The applicant has not proposed any signage.**

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-CUP-0395

I. Additional Single-Family Residential Zoning District Standards (R-R, R-E, R-1, R-2, R-3, R-4, R-5, or U-N):

1. Any building shall remain or shall be constructed so that the exterior design and ornamentation is residential in character and compatible with other residential architecture in the immediate neighborhood, so that there is no evidence from the street that the use is other than residential.

2. Where such a use is permitted in a structure which has been used as a residence, the permittee shall make no substantial alterations or improvements to the structure which would impair the structure's use as a residence at a later time.

3. Off-street parking not located within a drive-way shall be located to the side or rear of the building(s). **This section does not apply.**

J. For a complete application submittal for any Transitional Housing conditional use permit, in addition to the documentation required of all conditional use permit applications, the following additional information shall be provided:

1. Type of resident population to be served, if any;

2. The proposed maximum number of residents/beds and maximum number of employees;

3. Floor plans of any building subject to the use (showing the location and dimensions of all bedrooms and sleeping areas);

4. A written statement, plans, and/or permits indicating how any building subject to the application meets or will be adapted to meet all applicable building codes for the use if approved; and

5. Rules of conduct and management plan. In the event a conditional use permit for a Transitional Housing is approved, any change to the foregoing information must be approved by the BOZA as a modification pursuant to Section 11.5A.1 of this Land Development Code. **This information has been provided by the applicant.**

K. If Transitional Housing with an approved conditional use permit is subject to two (2) or more substantiated civil and/or criminal complaints within a 12-month period, the Planning Director may request that the BOZA revoke the conditional use permit in accordance Section 11.5A.6 of this Land Development Code. 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.

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-CUP-0395

Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief. **The applicant is aware of this requirement.**

L. An active license of the Transitional Housing, as required by LMCO Chapter 115, shall be maintained. No transitional housing may take place unless the license is active and in the name of the current operator and property owner. If the license is not renewed and lapses for six (6) months, or in the event of a change of ownership and/or operator, a new license is not issued within six (6) months from the date of the change, the conditional use permit shall become null and void. In order to recommence any Transitional Housing use, a new conditional use permit must be granted if required. **The applicant is aware of this requirement.**

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow a transitional home in the R-6 Residential Multi-Family zoning district Land Development Code (LDC) 4.2.55 (22-CUP-0395). The applicant will need relief from this requirement Item F as the existing structure is within 30-feet of every property line. This relief is justified as these are existing site conditions and no new construction is proposed, **SUBJECT** to the following Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a transitional home until further review and approval by the Board.
3. Prior to lawful commencement of the transitional home use the applicant shall obtain all permits and necessary approvals required by the Office of Construction Review and other governmental agencies.

The vote was as follows:

YES: Members Buttorff, Horton, Howard, Leanhart and Bond
NOT PRESENT AND NOT VOTING: Members Ford and Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-CUP-0382

Request: Conditional Use Permit for short term rental of a dwelling unit that is not the primary residence of the host
Project Name: Coral Avenue Short Term Rental
Location: 196 Coral Avenue
Owner: KCE Properties LLC
Applicant: Christopher Esterle
Jurisdiction: Louisville Metro
Council District: 9- Andrew Owen
Case Manager: Heather Pollock, 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 was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

05:01:11 Heather Pollock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Christopher Esterle, 5011 Cliffwood Road, Louisville, Ky. 40222

Summary of testimony of those in favor:

05:07:37 Christopher Esterle discussed 3 main concerns: occupancy limits; parking; and owner availability (see recording for detailed presentation).

The following spoke neither for nor against the request:

Michael O'Leary, 1963 Payne Street, Louisville, Ky. 40206

Summary of testimony of those spoke neither for nor against:

05:11:58 Michael O'Leary, President of the Clifton Community Council, would like to know how close the other short-term rental (168 Vernon Ave.) is to Mr. Esterle's property. Joe Haberman said it's just outside 600-feet (see recording for detailed presentation).

Deliberation:

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-CUP-0382

05:14:52 Board of Zoning Adjustment deliberation.

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.

Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in the R-5 Single Family Zoning District and Traditional Neighborhood Form District

On a motion by Member Howard, seconded by Member Buttorff, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the proposal does not conflict with Comprehensive Plan policies; and

WHEREAS, when appropriately managed, the proposed use is compatible with surrounding development and land uses; and

WHEREAS, the Board finds, 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 4.2.63 Short Term Rental Term Rental of a dwelling unit that is not the primary residence of the host or the Short Term Rental of a condominium unit that is the primary residence of the host in a R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7 or R-8A district and Short Term Rental of any dwelling unit in a TNZD district may be allowed upon the granting of a Conditional Use Permit. In addition to any conditions of approval, a short-term rental and its host shall meet the following requirements:

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

B. The dwelling unit shall be limited to a single short-term rental contract at a time. **The applicant has been informed of this requirement.**

C. At no time shall more persons reside in the short-term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-CUP-0382

excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **The applicant states that unit 1 has 3 bedrooms that will allow a maximum number of 8 guests and unit 2 also has 3 bedrooms that will allow a maximum of 8 guests, for a total of 16 guests for the entire property.**

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 are no properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host.**

E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short-term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short-term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short-term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short-term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short-term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. **This provision shall not be waived or adjusted. The applicant has been informed of this requirement.**

F. Food and alcoholic beverages shall not be served by the host to any guest. **The applicant has been informed of this requirement.**

G. Outdoor signage which identifies the short-term rental is prohibited in residential zoning districts. **The applicant has been informed of this requirement.**

H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **The applicant has stated there are 6 off street parking spaces. In addition, there appears to be on-street parking available in the area.**

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-CUP-0382

I. The short-term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances. **The applicant has been informed of this requirement.**

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

K. Prior to commencement of any short-term rental on the subject property, the host shall register the short-term rental pursuant to the Louisville Metro Code of Ordinances. If the short-term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void. **The applicant has been informed of this requirement.**

L. An active registration for the short-term rental, as required by the Louisville Metro Code of Ordinances, shall be maintained. No short-term rentals may take place unless the registration is active and in the name of the current host and property owner. If the registration is not renewed and lapses for six months, or in the event of a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by this Land Development Code. **The applicant has been informed of this requirement.**

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow short-term rental of dwelling unit that is not the primary residence of the host in the R-5 Single Family Zoning District and Traditional Neighborhood Form District, **SUBJECT** to the following Condition of Approval:

1. The conditional use permit approval for this short-term rental shall be allowed up to 3 bedrooms per unit (with a maximum of 8 guests per unit at any time). Prior to use, bedrooms must meet all occupancy requirements set forth in Louisville

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-CUP-0382

Metro Code of Ordinances. A modification of the conditional use permit shall be required to allow additional bedrooms.

The vote was as follows:

YES: Members Howard

NO: Member Leanhart and Bond

NOT PRESENT AND NOT VOTING: Members Ford and Vozos

ABSTAINING: Member Buttorff and Horton

There was further discussion (see recording for detailed presentation).

On a motion by Member Howard, seconded by Member Buttorff, the following resolution based on the Standard of Review and Staff Analysis, testimony and amended testimony heard today was adopted.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow short-term rental of dwelling unit that is not the primary residence of the host in the R-5 Single Family Zoning District and Traditional Neighborhood Form District, **SUBJECT** to the following Condition of Approval:

1. The conditional use permit approval for this short-term rental shall be allowed up to 3 bedrooms per unit (with a maximum of 6 guests per unit at any time). Prior to use, bedrooms must meet all occupancy requirements set forth in Louisville Metro Code of Ordinances. A modification of the conditional use permit shall be required to allow additional bedrooms.

The vote was as follows:

YES: Members Buttorff, Horton, Howard and Bond

NO: Member Leanhart

NOT PRESENT AND NOT VOTING: Members Ford and Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-CUP-0385

Request: Conditional Use Permit for short term rental of a dwelling unit that is not the primary residence of the host in the TNZD zoning district.

Project Name: S. Floyd Street Short Term Rental

Location: 1332 S. Floyd Street

Owner: Conrad & Kassandra Boyd

Applicant: Conrad & Kassandra Boyd

Jurisdiction: Louisville Metro

Council District: 6- Phillip Baker

Case Manager: Heather Pollock, 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 was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

05:25:40 Heather Pollock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Conrad Boyd, 1332 South Floyd Street, Louisville, Ky. 40208

Summary of testimony of those in favor:

05:29:03 Conrad Boyd discussed the following: overview of proposal and brief history of property; address 3 potential concerns; and illustrate several benefits of operating short-term at the proposed address (see recording for detailed presentation).

The following spoke in opposition to this request:

Helga Ulrich, 112 East Ormsby Avenue, Louisville, Ky. 40203
Court Blankenship, 1425 South 3rd Street, Louisville, Ky. 40208

Summary of testimony of those in opposition:

05:40:17 Helga Ulrich said this proposal would be a desirable rental property. There are already several other short-term rentals nearby (see recording for detailed presentation).

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-CUP-0385

05:46:47 Court Blankenship said she believes in the process. Parking will be a major issue (see recording for detailed presentation).

Rebuttal:

05:51:45 Conrad Boyd said he's passionate about Old Louisville (see recording for detailed presentation).

Conrad Boyd said there's ample street parking. He likes the option of only 1 of the dwelling units hosting short-term rentals at a time (see recording for detailed presentation).

Deliberation:

06:02:37 Board of Zoning Adjustment deliberation.

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.

Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in the Traditional Neighborhood Zoning District, (TNZD) and Traditional Neighborhood Form District

On a motion by Member Leanhart, seconded by Member Horton, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today, which was not enough justification to relieve the 600-foot rule was adopted.

WHEREAS, the Board finds, as of the date of this report, within 600' of the subject property, there are 5 properties with an approved conditional use permit allowing short term rentals that are 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 the Board does not grant relief, the application does not meet all of the listed requirements and the conditional use permit cannot be approved. There is 1 property with an approved conditional use permit that is the primary residence of the host and not subject to this standard. This is 21-CUP-0168.

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the Conditional Use Permit to allow short term rental of dwelling unit that is not the primary residence of the host in the Traditional Neighborhood Zoning District, (TNZD) and Traditional Neighborhood Form District based on the fact that there are 5 other

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-CUP-0385

properties within 600-feet and testimony regarding the parking, which would be all street parking.

The vote was as follows:

YES: Members Buttorff, Horton, Howard, Leanhart and Bond

NOT PRESENT AND NOT VOTING: Members Ford and Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-CUP-0386

Request: Conditional Use Permit for short term rental of a dwelling unit that is not the primary residence of the host
Project Name: Sale Avenue Short Term Rental
Location: 1358 Sale Avenue
Owner: Limitless Properties LLC
Applicant: Chris Nilest
Jurisdiction: Louisville Metro
Council District: 15- Jennifer Chappell
Case Manager: Amy Brooks, Planner I
Presented By: Chris French, Planning 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 was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

06:08:51 Chris French discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Chris Nilest, 534 Kingswood Drive, Taylorsville, Ky. 40071

Summary of testimony of those in favor:

06:11:31 Chris Nilest said his upstairs doesn't conform so it was suggested to apply for 2 bedrooms with a maximum of 6 guests. He also owns another short-term rental (see recording for detailed presentation).

Deliberation:

06:17:14 Board of Zoning Adjustment deliberation.

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.

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-CUP-0386

Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in the R-5 single family residential zone and Traditional Neighborhood form district

On a motion by Member Howard, seconded by Member Buttorff, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the proposal does not conflict with Comprehensive Plan policies; and

WHEREAS, when appropriately managed, the proposed use is compatible with surrounding development and land uses; and

WHEREAS, the Board finds, 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 4.2.63 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. **The applicant has been informed of this requirement.**

B. The dwelling unit shall be limited to a single short-term rental contract at a time. **The applicant has been informed of this requirement.**

C. At no time shall more persons reside in the short-term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **The subject property is smaller than two acres. The applicant states that the residence has 4 bedrooms. However, staff is concerned that 2 of the stated bedrooms do not meet Louisville Metro Code of Ordinances requirements due to their dimensions and ingress/egress. Therefore, staff recommends that the short-term rental's occupancy be limited to 2 bedrooms which would allow for a maximum of 6 guests unless the applicant can demonstrate that these two bedrooms can meet the code requirements. An**

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-CUP-0386

interior inspection or architectural documents would be required to determine compliance.

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 are 0 properties with an approved conditional use permit allowing short term rentals that is not the primary residence of the host.**

E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short-term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short-term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short-term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short-term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short-term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The applicant has been informed of this requirement.**

F. Food and alcoholic beverages shall not be served by the host to any guest. The applicant has been informed of this requirement.

G. Outdoor signage which identifies the short-term rental is prohibited in residential zoning districts. **The applicant has been informed of this requirement.**

H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **There appears to be on-street parking in the area.**

I. The short-term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances. **The applicant has been informed of this requirement.**

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-CUP-0386

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

K. Prior to commencement of any short-term rental on the subject property, the host shall register the short-term rental pursuant to the Louisville Metro Code of Ordinances. If the short-term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void. **The applicant has been informed of this requirement.**

L. An active registration for the short-term rental, as required by the Louisville Metro Code of Ordinances, shall be maintained. No short-term rentals may take place unless the registration is active and in the name of the current host and property owner. If the registration is not renewed and lapses for six months, or in the event of a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by this Land Development Code. **The applicant has been informed of this requirement.**

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in the R-5 single family residential zone and Traditional Neighborhood form district because there are no other short-term rentals within 600-feet, **SUBJECT** to the following Condition of Approval:

1. The conditional use permit for this short-term rental approval shall allow up to 2 bedrooms (with a maximum of 6 guests at any one time). Prior to use, bedrooms must meet all occupancy requirements set forth in Louisville Metro Code of Ordinances. A modification of the conditional use permit shall be required to allow additional bedrooms.

The vote was as follows:

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

PUBLIC HEARING

CASE NO. 22-CUP-0386

YES: Members Buttorff, Horton, Howard, Leanhart and Bond
NOT PRESENT AND NOT VOTING: Members Ford and Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
February 20, 2023

REPORTS OF OFFICERS AND COMMITTEES

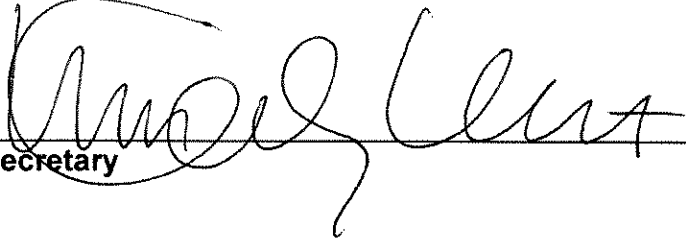
No report given

ADJOURNMENT

The meeting adjourned at approximately 7:21 p.m.



Chair



Secretary

