

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

June 5, 2023

A meeting of the Louisville Metro Board of Zoning Adjustment was held on Monday, June 5, 2023 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky, and also via Webex.

Members Present:

Richard Buttorff, Acting Chair
Kim Leanhart, Secretary
Brandt Ford
Lula Howard
Jan Horton
Yani Vozos

Members Absent:

Sharon Bond, Chair

Staff Members Present:

Chris French, Planning & Design Supervisor
Joe Haberman, Planning & Design Manager
Heather Pollock, Planner I
Joel Dock, Planning Coordinator
John Michael Lawler, Planner I
Jay Lockett, Planner II
Laura Ferguson, Legal Counsel
Mary Willis, Management Assistant
Chris Cestaro, Management Assistant (minutes)

The following cases were heard:

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MEETING MINUTES**

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May 15, 2023 Board of Zoning Adjustment Meeting Minutes

00:04:34 On a motion by Member Ford, seconded by Member Leanhart, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the May 15, 2023 Board of Zoning Adjustment meeting.

The vote was as follows:

YES: Members Horton, Leanhart, Ford, and Vice Chair Buttorff.

ABSTAIN: Members Vozos and Howard.

ABSENT: Chair Bond.

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PUBLIC HEARING

Case No. 23-VARIANCE-0072

NOTE: This case was heard out of order. It was originally listed as Item #8 on the agenda.

Request: Variance to allow a primary structure to exceed the maximum infill front yard setback.
Project Name: East Jefferson Street Variance
Location: 1010 E. Jefferson Street
Owner: Kyle Roshberg
Applicant: Matt Eldridge
Jurisdiction: Louisville Metro
Council District: 4-Jecorey Arthur
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. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

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

Agency testimony:

00:05:50 Amy Brooks presented the case, showed a Power Point presentation, and responded to questions from the Board members (see staff report and recording for detailed presentation.) She noted that this has been approved by the NuLu Overlay Committee, on condition that the applicant modify the site plan.

The following spoke in support of the request:

Matt Eldridge, Eldridge Company, 931 East Main Street, Louisville, KY 40206

Summary of testimony of those in support:

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00:08:57 Matt Eldridge, the applicant's representative, presented the applicant's case and responded to questions from the Board members (see recording for detailed presentation.) He said the retaining wall will be rebuilt.

The following spoke in opposition to the request:

No one spoke.

00:11:07 Board Members' discussion

Variance from the Land Development Code Section 5.1.12. A. 2.a to allow a principal structure to exceed the maximum front yard setback as established by infill regulations.

00:11:12 On a motion by Member Leanhart, seconded by Member Howard, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the proposed maximum setback does not interfere with the safe movement of people or vehicles along the street or right of way; and

WHEREAS, the Board further finds that the structure will not alter the essential character of the general vicinity. While the structure will exceed the maximum setback, the NULU Overlay Committee felt that the design alteration that aligned the balcony with the adjoining properties would better reinforce the cadence of the block. The traditional pattern of this block has two-story shotgun houses where the second story is recessed further from the property line; and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the structure will need to adhere to the regulations set forth in the Land Development Code; and

WHEREAS, the Board further finds that the requested variance will allow not an unreasonable circumvention of the zoning regulations. The proposed setback stills

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Case No. 23-VARIANCE-0072

preserve the basic feel of the streetscape that has been established within the block;
and

WHEREAS, the Board further finds that the requested variance does not arise from special circumstances which do generally apply to the land in the generally vicinity or the same zone as the lot is similar in size and shape to the surrounding properties; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the NULU Overlay Committee has already approved the design. It was this condition of approval to change the design that triggered the need for a variance from infill regulations; and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested **Variance** from the Land Development Code Section 5.1.12. A. 2.a to allow a principal structure to exceed the maximum front yard setback as established by infill regulations (requirement is 8 feet; request is 11 feet; variance is 3 feet.)

The vote was as follows:

YES: Members Horton, Vozos, Leanhart, Howard, Ford, and Vice Chair Buttorff.

ABSENT: Chair Bond.

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PUBLIC HEARING

Case No. 23-CUP-0048

***NOTE: This case was heard out of order. It was originally listed as Item #12 on the agenda.**

Request: Conditional Use Permit for Short Term Rental of a Dwelling Unit That is Not the Primary Residence of the Host (APPLICATION WITHDRAWN)
Project Name: Weisser Ave Short Term Rental
Location: 137 Weisser Avenue
Owner: Cassidy Cook
Representative: Cassidy Cook
Jurisdiction: Louisville Metro
Council District: 9- Andrew Owen
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. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

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

Agency testimony:

00:12:14 Amy Brooks said the applicant has withdrawn the application. No action is needed.

The application was withdrawn. No action was taken.

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Case No. 23-CUP-0096

***NOTE: This case was taken out of order. It was originally listed as Item #16 on the agenda.**

Request: TO BE CONTINUED TO JUNE 26, 2023 BOZA MEETING -
Conditional Use Permit for an accessory dwelling unit in R-5
single family zoning district.

Project Name: N. Crestmoor Accessory Dwelling Unit

Location: 100 N. Crestmoor Avenue

Owner: Lauren Riney & Michael Frank

Applicant: Michael Frank

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 this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

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

Agency testimony:

00:12:46 Heather Pollock said the case has been requested to be continued to the June 26, 2023 BOZA meeting.

The following spoke in favor of the proposal:

No one spoke.

The following spoke in opposition to the request:

No one spoke.

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PUBLIC HEARING

Case No. 23-CUP-0096

00:13:09 On a motion by Member Howard, seconded by Member Vozos, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** this case to the **June 26, 2023** Board of Zoning Adjustment meeting.

The vote was as follows:

YES: Members Horton, Vozos, Leanhart, Howard, Ford, and Vice Chair Buttorff.

ABSENT: Chair Bond.

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PUBLIC HEARING

Case No. 22-APPEAL-0014

***NOTE: The following case was heard out of order. It was originally #17 on the published agenda.**

Request: Appeal of an administrative decision regarding nonconforming rights.
Project Name: Atterberry Court Appeal
Location: 4607 Atterberry Court
Owner: Prospect Construction, LLC
Appellant: Tom Sanders
Representative: Bardenwerper, Talbot & Roberts, PLLC
Jurisdiction: City of Shively
Council District: 3 - Kumar Rashad
Case Manager: Chris French, AICP, 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 this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

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

Agency testimony:

00:13:43 Lura Ferguson, legal counsel for the Board, requested that this case be continued to the June 26, 2023 BOZA meeting, with the consent of the appellant.

00:40:36 On a motion by Member Howard, seconded by Member Ford, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** this case to the **June 26, 2023** Board of Zoning Adjustment meeting.

The vote was as follows:

YES: Members Horton, Vozos, Leanhart, Howard, Ford, and Vice Chair Buttorff.

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Case No. 22-APPEAL-0014

ABSENT: Chair Bond.

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PUBLIC HEARING

Case No. 22-VARIANCE-0090

Request: Variance for a fence to exceed the maximum height of 4' in the street side yards and be 6' in height
Project Name: 7708 Whitfield Drive
Location: 7708 Whitfield Drive
Owner: Lianet Reinoso
Representative: Lianet Reinoso
Jurisdiction: Louisville Metro
Council District: 26 - Brent Ackerson
Case Manager: Joel Dock, AICP, Planning Coordinator

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

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

Agency testimony:

00:14:56 Joel Dock presented the case, showed a Power Point presentation, and responded to questions from the Board members (see staff report and recording for detailed presentation.) He said that this type and height of fencing is not unique to this area; the issue is that this subject property is a corner lot that has 3 road frontages (see staff report.)

00:21:27 In response to questions from the Board members Mr. Dock described the fence material (see recording.) Mr. Dock said the applicant's reason for this fence is privacy.

The following spoke in favor of the proposal:

Lianet Reinoso, 7708 Whitfield Drive, Louisville, KY

Summary of testimony of those in favor of the proposal:

00:20:32 The applicant was called but was not present, or online.

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00:22:49 Board Members' deliberation.

Member Leanhart said the applicant should be present to be able to answer some questions about the fence. She asked if this case could be continued until the applicant could be present. Vice Chair Buttorff suggested some kind of "softening" or mitigation with landscaping outside the fence (between the fence and the street). See recording for detailed discussion.

00:30:13 On a motion by Member Leanhart, seconded by Member Howard, the following resolution was adopted:

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

The vote was as follows:

YES: Members Horton, Vozos, Leanhart, Howard, Ford, and Vice Chair Buttorff.

ABSENT: Chair Bond.

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Case No. 22-VARIANCE-0163

Request: Variances to encroach into front and street-side yards
Project Name: Heartland Dental
Location: 100 Marshall Dr
Owner: TT of B Louisville, Inc.
Applicant: Heartland Dental
Jurisdiction: Louisville Metro
Council District: 9 - Andrew Owen
Case Manager: Jay Lockett, AICP, Planner II

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

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

Agency testimony:

00:30:47 Jay Lockett presented the case, showed a Power Point presentation, and responded to questions from the Board Members (see staff report and recording for detailed presentation.) He confirmed that the property is zoned C-2.

The following spoke in favor of the proposal:

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

Chad Cornwell, WMG Development, 2721 Heritage Landing, St. Charles, MO 63303

Summary of testimony of those in favor of the proposal:

00:34:54 Chris Brown, the applicant's representative, presented the applicant's case, showed a Power Point presentation, and responded to questions from the Board members (see recording for detailed presentation.) He confirmed that the front yard setback requirement is 10 feet; the variance request is for 5 feet; with a variance of 5 feet. The required street side yard setback is 35 feet; the request is for 23 feet, the remainder is 12 feet. Mr. Brown added that the 10-foot VUA/LBA in this area is being met.

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00:45:00 In response to questions from Vice Chair Buttorff, Mr. Brown discussed the on-site water storage, and signage.

00:45:58 Chad Cornwell said he was available to answer questions.

The following spoke in opposition to the request:

No one spoke.

00:47:03 Board Members' deliberation.

Variance #1 - Variance from Land Development Code section 5.3.1 and Table 5.3.2 to permit the structure to encroach into the 10-foot front yard setback along Shelbyville Rd as shown on the development plan (requirement is 10 feet; the variance request is for 5 feet; with a variance of 5 feet.)

Variance #2 - Variance from Land Development Code section 5.1.12.B to permit parking and drive lanes to encroach into the infill street side yard setback along Marshall Dr as shown on the development plan (required street side yard setback is 35 feet; the request is for 23 feet as shown on the development plan.)

00:48:30 On a motion by Member Howard, seconded by Member Leanhart, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

(Variance #1) WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variances will not adversely affect public health safety or welfare as adequate screening and planting will be provided around the subject site where it abuts residential uses and public streets; and

WHEREAS, the Board further finds that the requested variances will not alter the essential character of the general vicinity, as the proposed development will provide a neighborhood serving commercial use that fits within the context of the Neighborhood Form District; and

WHEREAS, the Board further finds that the requested variances will not cause a hazard or nuisance to the public since the building will be constructed according to the building

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code, including all safety and health related provisions. MSD and Transportation Planning have approved the preliminary plan and will ensure safety through the construction permitting process; and

WHEREAS the Board further finds that the requested variances will not allow an unreasonable circumvention of zoning regulations as all required screening and planting will be provided around the subject site; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land, as they would not be able to provide adequate parking to serve their use, while maintaining the full width of the buffer adjacent to residential zoning and public streets; and

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

(Variance #2) WHEREAS, the Board further finds that the requested variances will not adversely affect public health safety or welfare as adequate screening and planting will be provided around the subject site where it abuts residential uses and public streets; and

WHEREAS, the Board further finds that the requested variances will not alter the essential character of the general vicinity, as the proposed development will provide a neighborhood serving commercial use that fits within the context of the Neighborhood Form District; and

WHEREAS, the Board further finds that the requested variances will not cause a hazard or nuisance to the public since the building will be constructed according to the building code, including all safety and health related provisions. MSD and Transportation Planning have approved the preliminary plan and will ensure safety through the construction permitting process; and

WHEREAS, the Board further finds that the requested variances will not allow an unreasonable circumvention of zoning regulations as all required screening and planting will be provided around the subject site; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land, as they would not be able to provide adequate parking to serve their use, while maintaining the full width of the buffer adjacent to residential zoning and public streets; and

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance #1 - Variance from Land Development Code section 5.3.1 and Table 5.3.2 to permit the structure to encroach into the 10-foot front yard setback along Shelbyville Rd as shown on the development plan (requirement is 10 feet; the variance request is for 5 feet; with a variance of 5 feet.); **AND** the requested Variance #2 - Variance from Land Development Code section 5.1.12.B to permit parking and drive lanes to encroach into the infill street side yard setback along Marshall Dr as shown on the development plan (required street side yard setback is 35 feet; with a variable of up to 12 feet as shown on the development plan; for a variance of up to 23 feet as shown on the development plan.)

The vote was as follows:

YES: Members Horton, Vozos, Leanhart, Howard, Ford, and Vice Chair Buttorff.

ABSENT: Chair Bond.

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PUBLIC HEARING

Case No. 22-VARIANCE-0170

Request: Variances to allow a structure to encroach into the front yard setback.
Project Name: Blue Wing Drive Carport
Location: 7502 Blue Wing Drive
Owner: Kimberly & Steven Brock
Applicant: Kimberly Brock
Jurisdiction: Louisville Metro
Council District: 12 - Rick Blackwell
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 this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street).

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

Agency testimony:

00:51:50 Heather Pollock presented the case, showed a Power Point presentation, and responded to questions from the Board members (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

Kimberly Brock, 7502 Blue Wing Drive, Louisville, KY 40258

Summary of testimony of those in support:

00:57:35 Kimberly Brock, the applicant, presented the case (see recording for detailed presentation.)

The following spoke in opposition:

No one spoke.

00:58:53 Board Members' deliberation.

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PUBLIC HEARING

Case No. 22-VARIANCE-0170

Variance from Land Development Code section 5.1.12.B.1.a to allow a structure to encroach into the infill front yard setback.

01:03:15 On a motion by member Ford, seconded by Member Howard, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety, or welfare, 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 Board further finds that the proposed structure may alter the essential character of the general vicinity as there are no other accessory structures similar to this in the front yard setbacks; and

WHEREAS, the Board further finds that the structure will not cause a hazard or nuisance to the public as it is required to meet all applicable requirements of the building code. The proposed structure will not obstruct any views as it is a sufficient distance from the right of way; and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed carport will be in the existing vehicle use area. Additionally, the infill front yard setback is not consistent along the block face; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the only other location the carport could be placed is behind the primary residence which would require the removal of large trees to access; and

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested **Variance** from Land Development Code section 5.1.12.B.1.a to allow a

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structure to encroach into the infill front yard setback (requirement range is 30 feet to 16 feet; the request is 9 feet; the variance is 7 feet.); **AND** does hereby waive the requirement for Item B because Item B has been satisfied based on the layout of the property.

The vote was as follows:

YES: Members Horton, Vozos, Leanhart, Howard, and Ford.

NO: Vice Chair Buttorff.

ABSENT: Chair Bond.

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PUBLIC HEARING

Case No. 23-VARIANCE-0022

Request: A variance to reduce the rear yard setback from 25 feet to 15 feet for the construction of three townhomes

Project Name: 6024 Shean Court Variance

Location: 6024 Shean Court

Owner: Shean Court, LLC

Applicant: Shean Court, LLC

Representative: Chris Crumpton

Jurisdiction: Louisville Metro

Council District: 22 - Robin Engel

Case Manager: John Michael Lawler, Planner I

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

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

Agency testimony:

01:04:09 John Michael Lawler presented the case, showed a Power Point presentation, and responded to questions from the Board members (see staff report and recording for detailed presentation.) In response to questions from Vice Chair Buttorff, Mr. Lawler clarified what determines whether a lot is buildable versus non-buildable; this lot has now been deemed as buildable.

01:08:28 In response to questions from Member Leanhart, Mr. Lawler said this lot is 2/10ths of an acre. It does meet density, and can have three units on it by right.

The following spoke in support of the request:

Chris Crumpton, 4350 Brownsboro Road Suite 110, Louisville, KY 40207

Summary of testimony of those in support:

01:09:04 Chris Crumpton, the applicant's representative, presented the applicant's case and showed a Power Point presentation. He said there are multiple duplexes or multi-unit dwellings on this and adjacent roads. He said this lot was originally a

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wastewater-treatment plant. It was it was reserved for that use, which is why it was labeled as “non-buildable.” The plant has now been closed, and the lot is now listed as “buildable” (see recording for detailed presentation.)

01:13:07 Mr. Crumpton discussed how MSD “takeover” properties (treatment facilities) revert back to the original owner/s after a certain amount of time. He discussed the construction of a regional sewer treatment plan. He discussed the approximate prices of the proposed townhomes. He discussed and compared parking for this and other duplexes in the area. In response to questions from Member Howard and Vice Chair Buttorff, Mr. Crumpton discussed their concerns about windows, and landscaping. Mr. Crumpton said an approved landscape plan must be required before building permits can be issued.

The following spoke in opposition to the request:

No one spoke.

01:18:53 Board Members’ deliberation.

Variance from LDC Section 5.3.1 to reduce the rear yard setback from 25 feet to 15 feet for the construction of three townhomes (10’ variance)

01:19:56 On a motion by Member Howard, seconded by Member Ford, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the variance will not adversely affect the public health, safety or welfare because the proposed structure’s encroachment is at the back of the property, while still respecting the side yard setback for adjoining residential uses. The lot behind the subject site is over ten acres and is heavily wooded; and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity because the proposed structure will utilize similar materials and promote the general aesthetic of the existing neighborhood, including the form of the structures; and

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WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public because the proposed structure's encroachment is located at the back of the lot, nearly 35 feet from the next nearest structure; and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the proposed structure is encroaching into only a small portion of the rear yard. A similarly sized and situated single-family home would be able to encroach the same amount without a variance; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because the proposed structure would not be able to be built with the required off-street parking; and

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from LDC Section 5.3.1 to reduce the rear yard setback from 25 feet to 15 feet for the construction of three townhomes (variance of 10 feet.) and **ON CONDITION** that windows will be a part of the exterior walls of buildings #1 and #3.

The vote was as follows:

YES: Members Horton, Vozos, Leanhart, Howard, Ford, and Chair Buttorff.

ABSENT: Chair Bond.

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PUBLIC HEARING

Case No. 23-VARIANCE-0041

Request: A variance to allow a structure to encroach into the required side yard and rear yard setbacks.
Project Name: Macon Avenue Variance
Location: 530 Macon Avenue
Owner: Joanie Samuel
Applicant: William Feather
Jurisdiction: Louisville Metro
Council District: 9-Andrew Owen
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. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street).

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

Agency testimony:

01:34:07 Amy Brooks presented the case, showed a Power Point presentation, and responded to questions from the Board members (see staff report and recording for detailed presentation and discussion.) She noted that the property is not in the City of St. Matthews, but is right across the street.

The following spoke in support of the request:

William Feather, 2600 Frankfort Avenue, Louisville, KY 40206

Summary of testimony of those in support:

01:37:32 William Feather, the applicant, presented the case (see recording for detailed presentation.)

The following spoke in opposition to the request:

No one spoke.

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Case No. 23-VARIANCE-0041

01:39:10 Board Members' deliberation.

(Variance #1) Variance from the Land Development Code Table 5.3.1 to allow an addition to encroach into the required side yard setback.

(Variance #2) Variance from the Land Development Code Section 5.4.2.2.a to allow an addition to encroach into more than 30% of the required rear yard.

01:41:39 On a motion by Member Leanhart, seconded by Member Vozos, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

(Variance #1) WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that 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 Board further finds that the requested variance will not alter the essential character of the general vicinity because the proposed addition is to be in an area where minimal setbacks from the side property lines are common. Examples of principal structures that seemingly encroach into the side yard setback include 3703 Nanz Avenue, 3705 Nanz Avenue, and 3702 Dayton Avenue. Please see site photos for aerial imagery of these specific properties; and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the proposed request seems compatible with the established pattern of side setbacks within the surrounding neighborhood; and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the property is not similar in size and shape to other properties in the subdivision. The property was the subject of a minor subdivision plat in 1991 which

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created two tracts from the lot at 3547 Nanz Avenue. As such, this property is smaller and shallower than most parcel tracts within the neighborhood; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship because the existing driveway and curb cut are located on the western property line where the applicant is proposing the construct the garage addition; and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the applicant has not begun construction on the new addition and has applied for variances; and

(Variance #2) WHEREAS, the Board further finds that 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 Board further finds that the requested variance will not cause a hazard or nuisance to the public because the addition to the primary structure must be constructed to comply with all building codes; and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the applicant's lot is rather narrow and has a limited amount of required rear yard. As such, any addition would probably encroach into the rear yard setback. There exists a limited amount of buildable space on the lot because of a 40-foot built limit line that runs across the front portion of the lot; and

WHEREAS, the Board further finds that 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 not similar in size and shape to other properties in the subdivision. The property contains both less square footage and available rear yard; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship because there is limited buildable area on the lot; and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which

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relief is sought since the applicant has not begun construction on the new addition and has applied for variances; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested **Variance** from the Land Development Code Table 5.3.1 to allow an addition to encroach into the required side yard setback (requirement – 5 feet; request – 2 feet; variance – 3 feet); **AND** the requested **Variance** from the Land Development Code Section 5.4.2.2.a to allow an addition to encroach into more than 30% of the required rear yard (requirement – 25 feet; request – 2 feet; variance – 23 feet); **AND** does hereby waive the requirement for Item B because Item B has been satisfied based on the layout of the property.

The vote was as follows:

YES: Members Horton, Vozos, Leanhart, Howard, Ford, Chair Buttorff.

ABSENT: Chair Bond.

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Case No. 23-VARIANCE-0045

Request: A variance to allow an accessory structure to encroach into required rear yard setback and a variance to allow a private yard area to be less than the required 20% of the area of the lot

Project Name: Bassett Avenue Variance
Location: 1229 Basset Avenue
Owner: Jennifer and Brad Geier
Applicant: Jennifer and Brad Geier
Jurisdiction: Louisville Metro
Council District: 8-Benjamin Reno-Weber
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. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street.)

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

Agency testimony:

01:44:24 Amy Brooks presented the case, showed a Power Point presentation, and responded to questions from the Board members (see staff report and recording for detailed presentation.)

The following spoke in favor of the request:

Jennifer and Brad Geier, 1229 Bassett Ave, Louisville, KY 40204

Jen Schultz, 1248 Bassett Avenue, Louisville, KY 40204

Summary of testimony of those in favor:

01:49:40 Jennifer and Brad Geier, the applicants, presented the case (see recording for detailed presentation.)

01:52:38 Jen Schultz spoke in support (see recording for detailed presentation.)

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The following spoke in opposition to the request:
No one spoke.

01:54:45 Board members' deliberation.

(Variance #1) Variance from the Land Development Code section 5.4.1.E.2 to allow an accessory structure to encroach into the rear yard setback.

(Variance #2) Variance from Land Development Code section 5.4.1.D.3 to allow a private yard area to be less than the required 20% of the area of the lot.

01:55:04 On a motion by Member Howard, seconded by Member Leanhart, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

(Variance #1) WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that 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, including fire codes, and the Land Development Code, except where relief is requested. In addition, the owner of the adjoining property that would be most affected by the reduction in the required rear yard stated to the Architectural Review Committee meeting on March 15, 2023, that they have no issue with the proposed encroachment; and

WHEREAS, the Board further finds that the proposed structure will not alter the essential character of the general vicinity as it will be built with material that is in character with the surrounding residential neighborhood. The applicant has already received a certificate of appropriateness attesting that the proposed garage/carriage house generally meets the Cherokee Triangle Preservation District design guidelines for new construction; and

WHEREAS, the Board further finds that 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

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WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the proposed carriage house is to be located in an area where minimal setbacks from the rear property lines are common. Examples of accessory structures that seem to encroach into the required rear yard are common along the alleyway that runs adjacent to the subject property. Please see site photos for examples; and

WHEREAS, the Board further finds that the requested variance does arise from special circumstances which do not generally apply to the land in the general vicinity or the same zone as the lot is not similar in size and shape to the surrounding properties. This parcel is shallower than most of the properties on the surrounding tracts; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant because if the carriage house is required to be five feet from the rear property line, the applicant would be unable to use the existing foundation and would reduce required private yard area even further; and

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

(Variance #2) WHEREAS, the Board further finds that 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, including fire codes, and the Land Development Code, except where relief is requested; and

WHEREAS, the Board further finds that the proposed private yard area reduction will not alter the essential character of the general vicinity as many properties in the area seemingly have reduced private yard areas; and

WHEREAS, the Board further finds that 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 Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed accessory structure will comply with all other regulations, except where relief is requested, and there are other properties within the block that have seemingly reduced open space between the principal and accessory use areas. In addition, the applicant is proposing

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to provide more open space by requesting to move the accessory structure closer to the rear property line allowing for an expansion of the private yard area; and

WHEREAS, the Board further finds that the requested variance does arise from special circumstances which do not generally apply to the land in the general vicinity or the same zone as the lot is not similar in size and shape to the surrounding properties. This property has a limited amount of open space between the principal structure and the required rear yard; therefore, any building of an accessory structure would likely require a variance for a reduced private yard area; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as there is limited open space on the parcel; and

WHEREAS, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The applicant has not started construction on the garage and has requested a variance; now therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested **Variance** from the Land Development Code section 5.4.1.E.2 to allow an accessory structure to encroach into the rear yard setback (requirement – 5 feet; request – 2 feet; variance – 3 feet); **AND** the requested **Variance** from Land Development Code section 5.4.1.D.3 to allow a private yard area to be less than the required 20% of the area of the lot (requirement – 692 square feet; request – 400 square feet; variance – 292 square feet.)

The vote was as follows:

YES: Members Horton, Vozos, Leanhart, Howard, Ford, and Vice Chair Buttorff.
ABSENT: Chair Bond.

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PUBLIC HEARING

Case No. 20-NONCONFORM-0004

NOTE: This case was heard twice at today’s meeting – testimony was taken at this time, and then the case was continued to the END of the meeting to allow the applicant time to testify before the Board.

Request:	Nonconforming Rights Application for a Storage Facility
Project Name:	Auto Repair Nonconforming rights
Location:	2498 Ralph Avenue
Owner:	Jericho Cook
Applicant:	Jericho Cook
Jurisdiction:	City of Shively
Council District:	3 - Kumar Rashad
Presenter:	Christopher French, AICP, Planning Supervisor
Case Manager:	Ian Sexton, Associate Planner Presented by Chris French, AICP, 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 this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street).

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

Agency testimony:

01:56:50 Chris French, Planning Supervisor, presented the case on behalf of Ian Sexton. He also showed a Power Point presentation and responded to questions from the Board members (see staff report and recording for detailed presentation.)

02:05:11 In response to questions from Member Vozos, Mr. French discussed what evidence needed to be shown in order to acquire nonconforming rights (see recording for detailed conversation.)

02:06:54 In response to questions from Vice Chair Buttorff, Mr. French explained the enforcement action which prompted this case (see recording.)

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Case No. 20-NONCONFORM-0004

The following spoke in support of the request:

No one spoke.

03:37:04 Board Members' deliberation

02:10:23 On a motion by Member Howard, seconded by Member Leanhart, the Board of Zoning Adjustment moved to continue this case to the end of today's meeting.

02:12:41 The motion carried by general consensus.

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Case No. 23-NONCONFORM-0007

Request: Nonconforming Rights for a packaged liquor store
(no on-site alcohol consumption allowed).
Project Name: Nonconforming rights
Location: 1442 S 22nd Street
Owner: Alem Tella & Asfash Zemariam
Applicant: Daniel Hailemariam
Jurisdiction: Louisville Metro
Council District: Phillip Baker - District 6
Presenter: Christopher French, AICP, Planning Supervisor
Case Manager: Mark Pinto, Associate Planner
Presented by Chris French, AICP, 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 this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street).

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

Agency testimony:

02:12:54 Chris French presented the case on behalf of Mark Pinto, showed a Power Point presentation, and responded to questions from the Board members (see staff report and recording for detailed presentation). Mr. French said the case was prompted today because the new tenant requires a new ABC license.

02:20:03 Member Howard asked if the old underground fuel storage tanks had been removed, from the time when this site was a gas station. Mr. French said he had no information regarding that. Member Howard expressed concern about potential environmental hazards.

02:21:46 In response to questions from member Vozos, Mr. French said the issues today are that this is a split-zoned parcel. Staff has records that this was at one time a service station, not a package liquor store. Both service stations and package liquor stores are both allowed in C-1; however, a large portion of this property is zoned R-6.

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The following spoke in favor of the request:

Mulugeta Hadera, 2115 Bridlewood Drive, Louisville, KY 40299

Alem Tella, 8504 Running Spring Drive, Louisville, KY 40241

Mussie Wolday, 5509 Overbrook Woods Place, Louisville, KY 40291

Summary of testimony of those in favor:

02:23:31 Alem Tella, one of the property owners, said he purchased the property in 2003. It was a liquor store at that time, and he kept operating it as a liquor store. He said that, when he needed to work fewer hours, he leased the store to another person. He said the underground storage tanks have been removed and the site cleared by the EPA (a portion paid by Mr. Tella and a portion paid by the EPA.) He discussed legal and historical issues with the business. He said the person he leased the store to is now trying to lease to another person.

02:27:06 Mulugeta Hadera said he has been running this business since 2012. He discussed previous owners of the business, and is unclear why his sub-leasing this business has suddenly triggered this action. Mr. Hadera said he has a current ABC license. He now wishes to sell the business to Daniel Hailemariam, who runs a liquor store at another location.

02:32:05 Mr. French said his understanding was that the ABC license was going to a different person/operator for this store. So ABC requested a zoning check from Planning & Design Services staff. He said PDS has no record of nonconforming rights being established on this property for a liquor store use.

02:32:44 Mussie Wolday said he and Daniel Hailemariam tried to buy this liquor store. They applied for the ABC license. ABC tried to check the zoning, but found a discrepancy in the zoning. The license is under Mr. Hadera's name.

02:36:02 In response to questions from Laura Ferguson, legal counsel for the Board, Mr. French said the case needs to go back to the rezoning where the property was taken out of industrial use. The liquor store use needs to show that it existed prior to 1985. See recording for detailed discussion.

The following spoke in opposition to the request:

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No one spoke.

02:39:43 Board Members' deliberation

02:43:28 On a motion by Member Vozos, seconded by Member Howard, the following resolution, based on the evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the applicant's request that the nonconforming use be recognized as an established activity which lawfully existed at the time of the enactment of any zoning regulation which would not permit such activity, as of 1985 when the zoning changed, and continuing to the present.

The vote was as follows:

YES: Members Horton, Vozos, Leanhart, Howard, Ford, and Vice Chair Buttorff.
ABSENT: Chair Bond.

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Case No. 23-CUP-0030

Request: Conditional Use Permit for Short Term Rental of a Dwelling Unit That is Not the Primary Residence of the Host
Project Name: New Main Street Short Term Rental
Location: 2106 New Main Street
Owner/Applicant: Jonathan Gonzales
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 this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street).

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

Agency testimony:

02:45:28 Heather Pollock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation).

02:49:00 In response to a question from Member Leanhart, Ms. Pollock said she was not sure if the current CUP within the 600 feet is active, but it was approved prior to a zoning change, so it is not subject to the 600 foot rule or the expiration conditions that are now current.

The following spoke in favor of the request:

Jonathan Gonzales, 3103 Dellbrook Avenue, Louisville, KY 40220

Summary of testimony of those in favor:

02:48:44 Jonathan Gonzales said he found out today that there is some opposition, and he read some of his rebuttal comments into the record (see recording for detailed presentation.) He noted that he lives in Louisville, and the house is close to many local

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establishments in the neighborhood (restaurants, etc.) He said he planned to do all of the maintenance and management himself.

02:56:37 In response to questions from Member Leanhart, Mr. Gonzales said he lives about 6 miles away from the property. He also discussed his relationships with neighbors and what was occurred at the neighborhood meeting.

The following spoke in opposition to the request:

Mike O’Leary, 1963 Payne Street, Louisville, KY 40206

Ann Ramser, 1307 East Kenwood Drive, Louisville, KY 40214

Summary of testimony of those in opposition:

02:58:26 Mike O’Leary, President of the Clifton Community Council, said this home would make a “wonderful” long term rental unit; however, due to the 600-foot rule, he has to speak in opposition (see recording for detailed presentation.)

03:02:33 Ann Ramser said she is opposed because of the 600-foot rule. She discussed her concerns about the housing shortage.

Rebuttal:

03:04:37 Mr. Gonzales asked if the permit for the property at 109 North Bellaire (the short term rental within 600 feet of his property) is expired. Joe Haberman, Planning & Design Manager, explained that any conditional use approved before the LDC amendment in 2019 is not subject to the 6-month provision where the owner has to maintain an active license (see recording for detailed explanation.) Mr. Gonzales said corporations and out-of-town investors are causing housing shortages, not individuals listing a spare house.

03:07:18 Board Members’ deliberation

Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in the R-5A Multi-Family zoning district and Traditional Neighborhood form district.

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Case No. 23-CUP-0030

03:09:47 On a motion by Member Ford, seconded by Member Howard, the following resolution, based on evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that, as of the date of the staff report, within 600' of the subject property, there is 1 property with an approved conditional use permit allowing short term rentals that is not the primary residence of the host. now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the requested Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in the R-5A Multi-Family zoning district and Traditional Neighborhood form district.

The vote was as follows:

YES: Members Horton, Howard, Ford, and Vice Chair Buttorff.

NO: Members Vozos and Leanhart.

ABSENT: Chair Bond.

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Case No. 23-CUP-0049

Request: Conditional Use Permit for a Private Institutional Use
Project Name: Evangel World Prayer Expansion
Location: 6900 Billtown Road
Owner: Evangel World Prayer Center of Kentucky
Representative: John Talbott, Bardenwerper Talbott & Roberts PLLC
Land Development and Design, INC
Jurisdiction: Louisville Metro
Council District: 22 - Robin Engel
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 this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street).

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

Agency testimony:

03:12:09 Heather Pollock presented the case on behalf of Molly Clark, showed a Power Point presentation, and responded to questions from the Board members (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

John Talbott, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40223

Summary of testimony of those in support:

03:15:23 John Talbott, the applicant's representative, presented the applicant's case and showed a Power Point presentation (See recording for detailed presentation.) Mr. Talbott confirmed that the existing gymnasium parking will be expanded to accommodate the new gymnasium. He said that, after conversations with Beth Stuber at Louisville Metro Transportation Planning, the applicant will agree to a fee-in-lieu for sidewalks (of approximately \$4250) pending approval from Metro Public Works. He

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requested no limited hours of operation because this facility because activities can take place at various hours. He said no residences are close to the gymnasiums.

The following spoke in opposition to the request:

No one spoke.

03:20:55 Board Members' deliberation.

Conditional Use Permit to allow a private institutional use to construct a detached multipurpose/gymnasium

03:21:01 On a motion by Member Leanhart, seconded by Member Vozos, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal meets Goal 1 – Community Form because the new development is compatible with the scale and site design of the existing development; the proposed building will not cause an issue with setbacks; Transportation Planning has reviewed and approved the proposal; signage is not proposed for this use; Transportation Planning has reviewed and approved the proposal; the proposal will follow the noise ordinance; and lighting will be Land Development Code compliant; and

WHEREAS, the Board further finds that the proposal meets Goal 2 – Community Facilities because MSD has reviewed and approved the proposal; and

WHEREAS, the Board further finds that the proposal meets all applicable policies of the Comprehensive Plan; and

WHEREAS, the Board further finds that the proposed improvements are compatible with surrounding development and land uses; and

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

WHEREAS, the Board further finds that private institutional uses, except for such uses specifically regulated elsewhere in this LDC, may be allowed in the R-R, R-E, R-1, R-2, R-3, R-

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4, R-5, and U-N zoning districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

A. Except in the R-R zoning district, all structures, except fencing, and all off-street parking shall be at least 30 feet from any property line adjacent to an existing residential use or residential zoning district. In the R-R zoning district all structures, except fencing, shall be at least 150 feet from any property line and all off-street parking shall be at least 30 feet from any property line.

B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated. ***A traffic study was not required by Transportation Planning.***

C. Off-street parking not located within a driveway shall be located to the side or rear of the building(s). The number of required off-street parking spaces shall be determined by the Planning Director in consultation with the Director of Public Works based on the standards for the closest comparable use and on the particular parking demand and trip generation characteristics of the proposed use. **There is existing off-street parking on the site. Transportation Planning has reviewed and approved the parking numbers.**

D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99). ***The proposal will comply with the Metro Noise Ordinance.***

E. The Board of Zoning Adjustment may set hours of operation for the institutional use in order to minimize potential negative impacts on surrounding residential properties.

Now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Conditional Use Permit to allow a private institutional use to construct a detached multipurpose/gymnasium, and does hereby **GRANT** relief from Item A because the parking lot has no significant impact of nearby residences; and does hereby **GRANT** relief from Item E because the facility's use of time of when the building can be used does not pose issues with noise on nearby residents, because it is not located near residences; and SUBJECT to the following Conditions of Approval:

Conditions of Approval

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

2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a private institutional use until further review and approval by the Board.

The vote was as follows:

YES: Members Hortpn, Vozos, Leanhart, Howard, Ford, and Vice Chair Buttorff.

ABSENT: Chair Bond.

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Case No. 23-CUP-0065

Request: Conditional Use Permit for Short Term Rental of a Dwelling Unit That is Not the Primary Residence of the Host
Project Name: Rammers Avenue Short Term Rental
Location: 1229 Rammers Avenue
Owner: Olga Vegvary
Representative: Olga Vegvary
Jurisdiction: Louisville Metro
Council District: 6-Phillip Baker
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. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street).

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

Agency testimony:

03:23:13 Amy Brooks presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Olga Vegvary, 3936 Southeast Grant Street, Portland, OR 97214

Freddie Robinson, 187 Wigan Court, Shepherdsville, KY 40165

Summary of testimony of those in favor:

03:25:52 Olga Vegvary, the applicant, presented the case, and showed a brief slideshow (see recording for detailed presentation.) She said she and her husband purchased the house in 2019 and lived in it as their primary residence until June 2020. She said they are planning to split their time between this house and the Portland address. She noted that this is a residential neighborhood, but there is multi-famil and commercial nearby.

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03:32:32 Freddie Robinson said he is the applicants' manager for the property and spoke in support. He noted that guests appreciate and utilize the walkability of the neighborhood.

03:34:49 In response to questions from Member Horton, Mr. Robinson said he started doing AirBnB business in 2017. This listing, as an owner-occupied business, has many positive reviews. Ms. Vegvary said she and her husband come back into town periodically throughout the year.

The following spoke in opposition to the request:

Ann Ramser, 307 East Kenwood Drive, Louisville, KY 40214

Summary of testimony of those in opposition:

03:37:00 Ann Ramser said that Mr. Robinson, as the caretaker/manager of the property, lives in Shepherdsville, which is not close to the subject site. She also said that the 600-foot rule applies to the entire property line.

Rebuttal:

03:38:47 Ms. Vegvary presented rebuttal (see recording.)

03:39:32 In response to questions from Member Howard, Ms. Vegvary confirmed that she does own the property.

03:39:57 Board Members' deliberation

Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in the R-6 Multi-Family Residential zone and Traditional Neighborhood form district.

03:40:57 On a motion by Member Ford, seconded by Member Horton, the following resolution, based on Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

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PUBLIC HEARING

Case No. 23-CUP-0065

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that, as of the date of the staff report, within 600' of the subject property, there is one property with an approved conditional use permit allowing short term rentals that is not the primary residence of the host. The CUP cannot be approved without relief from Item D; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the requested Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in the R-6 Multi-Family Residential zone and Traditional Neighborhood form district.

The vote was as follows:

YES: Members Horton, Howard, Ford, and Chair Buttorff.

NO: Members Vozos, Leanhart,

ABSENT: Chair Bond.

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PUBLIC HEARING

Case No. 23 - CUP-0070

Request: Conditional Use Permit for Short Term Rental of a Dwelling Unit That is Not the Primary Residence of the Host
Project Name: Euclid Avenue Short Term Rental
Location: 1050 Euclid Avenue
Owner: Kimberly and Wesley Greathouse
Representative: Kimberly and Wesley Greathouse
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 this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street).

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

Agency testimony:

03:52:31 Heather Pollock presented the case on behalf of Molly Clark and showed a Power Point presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Kim and Wesley Greathouse, 1050 Euclid Avenue, Louisville, KY 40208

Summary of testimony of those in favor:

03:55:25 Kim Greathouse, the applicant, presented the case (see recording for detailed presentation.)

03:59:48 Wesley Greathouse was online but did not speak.

The following spoke in opposition to the request:

Ann Ramser, 307 East Kenwood Drive, Louisville, KY 40214

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PUBLIC HEARING

Case No. 23 - CUP-0070

Summary of testimony of those in opposition:

04:02:44 Ann Ramser presented a slideshow said she could not find any formal application that was signed by the applicant (see recording for detailed presentation.) She said the neighborhood meeting was not held on-site. Member Leanhart pointed out that there are no regulations stating that neighborhood meetings must be held on-site. Joe Haberman, Planning Manager, discussed policies and bylaws regarding the location of neighborhood meetings.

Rebuttal:

04:08:09 Ms. Greathouse said the application was turned in to Molly Clark (the case manager) and the fees paid on the same day; she said the form not being signed was an oversight. She said the neighborhood meeting was not held at the house because family members were living there and renovations were also taking place.

04:10:01 Board Members' deliberation

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 Residential Zoning District and Traditional Neighborhood form district.

04:10:19 On a motion by Member Leanhart, seconded by Member Vozos, the following resolution, based on Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

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

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

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

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WHEREAS, the Board further finds that **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 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 dwelling unit has 3 bedrooms that will allow a maximum number of 8 guests.***
- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. ***As of the date of this report, within 600' of the subject property, there 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

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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. ***LDC standards credit the site with 1 on street and 5 off-street parking spaces.***

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

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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.***

Now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested 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 Residential Zoning District and Traditional Neighborhood form district; **SUBJECT** to the following Condition of Approval:

Condition of Approval:

The conditional use permit approval for this short term rental shall be allowed up to 3 bedrooms (with a maximum of 8 guests 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 Horton, Vozos, Leanhart, Howard, Ford, and Vice Chair Buttorff.
ABSENT: Chair Bond.

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PUBLIC HEARING

Case No. 23-NONCONFORM-0004

NOTE: This case was introduced earlier at today’s meeting.

Request:	Nonconforming Rights Application for a Storage Facility
Project Name:	Auto Repair Nonconforming rights
Location:	2498 Ralph Avenue
Owner:	Jericho Cook
Applicant:	Jericho Cook
Jurisdiction:	City of Shively
Council District:	3 - Kumar Rashad
Case Manager:	Ian Sexton, Associate Planner
Presenter:	Christopher French, AICP, 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 this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at Planning and Design Services offices, 444 South 5th Street).

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

Agency testimony:

Because staff presented the case earlier at today’s hearing, no additional staff testimony was provided.

The following spoke in favor of the request:

Jericho Cook, 4535 Poplar Level Road, Louisville, KY

Summary of testimony of those in favor:

04:13:33 Jericho Cook, the applicant, presented the case (see recording for detailed presentation.) He said the property had “nonconforming rights” on it when he bought it. He said PVA has this listed as “Industrial” property and that is how he’s been taxed on it. The site has never been residential.

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04:15:17 In response to questions from the Board members, Mr. Cook said he had owned the property since 2017. He said there was an enforcement case on the property (the tenant was selling parts out of the property; once Mr. Cook found out, the tenant was evicted.) Joe Haberman, Planning Manager, elaborated upon the enforcement issues. Mr. Cook said that, right now, the property is empty – he intended it to be for storage, or industrial use (see recording for detailed discussion.) In response to questions from Member Vozos, Mr. Cook said the City of Shively and Louisville Metro both have this property listed as “Industrial” on the tax forms.

04:21:08 Laura Ferguson, legal counsel for the Board, discussed legal issues regarding providing proof of nonconforming rights (see recording.)

The following spoke in opposition to the request:

No one spoke.

04:30:44 On a motion by Member Horton, seconded by Member Howard, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** this case to a date uncertain to allow the applicant time to gather further tax evidence and work with the case manager.

The vote was as follows:

YES: Members Horton, Vozos, Leanhart, Howard, Ford, and Vice Chair Buttorff.

ABSENT: Chair Bond.

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The meeting adjourned at approximately 5:34 p.m.

Chair

Secretary