

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

May 15, 2023

A meeting of the Louisville Metro Board of Zoning Adjustment was held on Monday, May 15, 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

Members Absent:

Sharon Bond, Chair
Yani Vozos

Staff Members Present:

Chris French, Planning & Design Supervisor
Joe Haberman, Planning & Design Manager
Heather Pollock, Planner I
Molly Clark, Planner II
John Michael Lawler, Planner I
Laura Ferguson, Legal Counsel
Chris Cestaro, Management Assistant (minutes)

The following cases were heard:

**BOARD OF ZONING ADJUSTMENT
MEETING MINUTES**

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April 24, 2023 Board of Zoning Adjustment Meeting Minutes

00:05:08 On a motion by Member Howard, seconded by Member Horton, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the April 24, 2023 Board of Zoning Adjustment meeting.

The vote was as follows:

YES: Members Horton and Vice Chair Buttorff.

ABSTAIN: Howard, Leanhart, and Ford.

ABSENT: Member Vozos and Chair Bond.

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00:06:15 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 **APPROVE** the minutes of the May 1, 2023 Board of Zoning Adjustment meeting.

The vote was as follows:

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

ABSENT: Member Vozos and Chair Bond.

**BOARD OF ZONING ADJUSTMENT
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BUSINESS SESSION

Case No. 23-VARIANCE-0047

Request: VARIANCES for an addition to a primary structure to encroach into the side yard setbacks.
Project Name: Mary Street Variance
Location: 1049 Mary Street
Owner: KMCM Holdings, LLC
Applicant: Jason Thomas
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:

00:07:12 Chris French, Planning Supervisor, 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).

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

00:09:30 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:

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

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Development Code, except where relief is requested. Staff is not concerned with construction and maintenance encroachment as adjoining property owners have signed the non-public hearing affidavit; and

WHEREAS, the Board further finds that the proposed addition will not alter the essential character of the general vicinity as the existing home and surrounding homes are built to similar setbacks from side property lines; and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the property is only 25 ft. in width and the addition is consistent with the existing structure and to surrounding structures in the neighborhood; 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 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 further finds that 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 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 5.2.2 to allow a second story to encroach into the required 3 ft side yard setback (West side yard setback: requirement is 2.5 feet; the request is 0 feet; variance is 2.5 feet; AND the East side yard setback: requirement is 2.5 feet; request is 1.5 feet; variance is 1 foot.)

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The vote was as follows:

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

ABSENT: Member Vozos and Chair Bond.

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BUSINESS SESSION

Case No. 22-MCUP-0001

Request: **CONTINUED FROM 05/01/23 BOZA** - A Modified Conditional Use Permit for a Scrap Metal Recycling and Storage Facility.

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: River Metals Recycling, Inc.

Representative: Nick Nicholson, Stoll Keenon Ogden, PLLC

Jurisdiction: Louisville Metro

Council District: 4 - Jecorey Arthur

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:

00:10:36 Chris French presented the case, showed a Power Point presentation, and responded to questions from the Board members. He said this case was continued from the May 1, 2023 Board of Zoning Adjustment meeting to allow the applicant to revise the Combustion Incident Reduction Plan; to add the hours of operation (particularly Sunday operation.) See staff report and recording for detailed presentation.

00:12:08 Board Members' discussion

00:15:35 On a motion by Member Howard, seconded by Member Leanhart, the following resolution, based on the new CIRP plan that was provided which was provided at today's meeting, and evidence and testimony heard at all hearing dates related to this case (February 21, 2022; June 13, 2022; September 12, 2022; February 20, 2023; March 20, 2023; and May 1, 2023), was adopted:

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RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Conditions of Approval on pages 6 and 7 in the staff report, with the deletion of Proposed Condition #8 because the CIRP has already provided the hours of operation for the shredder; and the revision of Condition #6 to reflect today's date, to read as follows:

Conditions of Approval

1. Applicant agrees to maintain all landscape materials shown on the Landscape Plan in healthy condition, including all trees. Maintenance includes but is not limited to; appropriate watering for plant and tree success, trimming of dead limbs, mulching and removal of invasive species and vines. Applicant shall replace any dead trees within three (3) months of a tree's demise, weather permitting, but in no event more than five (5) months.
2. Cleaning of Metal Lane. Applicant agrees, on an as-needed-basis, to clean dust and debris (1) from Metal Lane at its intersection with River Road, and (2) on Metal Lane within 180 feet of the River Road right-of-way line.
3. 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.
4. The Dust Control Plan submitted by the applicant shall be implemented (under Tab 4 of the applicant's booklet dated March 2, 2011) and shall continue to be used for the duration of the conditional use permit.
5. The constructed sound barrier wall shall be maintained. Any changes (other than cosmetic changes) to the wall shall be reviewed and approved by the Board.
6. The Applicant/Owner shall implement the Combustion Incident Reduction Plan ("CIRP") last revised on 05/15/23 and shall continue to be used for the duration of the conditional use permit.
7. The Planning Director based on verified complaints submitted by property owners or lessees of property negatively affected by the explosions from the subject property may request BOZA to hold a public hearing; a public hearing shall then be scheduled, and the Board shall determine from the evidence whether additional measures may be required to mitigate the negative impacts of explosions.
8. ~~The shredder shall only operate on Monday through Saturday from 7 AM to 9 PM.~~

The vote was as follows:

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

ABSENT: Member Vozos and Chair Bond.

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Case No. 23-CUP-0040

Request: **CONTINUED FROM MAY 1, 2023 BOZA MEETING – A**
Conditional use permit to allow a rehabilitation home in the
R- 5 Single-Family Zoning District
Project Name: Bolling Avenue Rehabilitation Home
Location: 2318 Bolling Avenue
Owner/Applicant: Omni Community Enrichment and Development
Representative: Damin Williams
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:

00:17:34` Chris French, Planning Supervisor, 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 favor of the proposal:

Damin Williams, 2127 West Hill Street, Louisville, KY 40210

Summary of testimony of those in favor of the proposal:

00:20;46 Damin Williams, the applicant, presented the case and responded to questions from the Board members (see recording for detailed presentation.)

00:23:20 In response to questions from the Board members, Mr. Williams discussed modes of treatment, staffing, and operations. The site will be staffed 24 hours a day. Mr. Williams said clients are provided transported to other treatment facilities or agencies. Living/sleeping arrangements per room were discussed.

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00:32:37 In response to questions from Member Howard, Mr. Williams said he has submitted documentation regarding the program, the intended use, and business plan. They are currently going through credentialing.

The following spoke in opposition to the request:

No one spoke.

00:35:00 Board members' deliberation.

Conditional Use Permit to allow a rehabilitation home in the R-5 Single-Family Zoning District per Land Development Code (LDC) 4.2.31

00:37:58 On a motion by Member Leanhart, 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 proposal meets all applicable policies of the Comprehensive Plan; and

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

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

WHEREAS, the Board further finds that **Rehabilitation Homes** may be allowed in any zoning district upon the granting of a Conditional Use Permit and compliance with the listed requirements.

- A. All bedrooms and sleeping areas shall meet the current occupancy limitations required in LMCO and any applicable building, fire, or life safety code. **STAFF: The subject site has 5 bedrooms but one bedroom will be used as an office for staff.**

- B. Nonresidential uses and services, excluding those that are accessory to the

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Rehabilitation Home use, shall not be carried out unless otherwise permitted and approved as a separate use. **STAFF: The applicant is aware of this requirement.**

- C. When reviewing a conditional use permit application for a Rehabilitation Home, 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 Rehabilitation Home 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. **STAFF: As of the date of this report there are no other properties within 1,000 ft. of the subject property with an approved conditional use permit allowing another Commercial Boarding House, Rehabilitation Home, or Transitional Housing use.**

- D. A Rehabilitation Home shall meet the health, sanitation, structural, property maintenance, fire, and life safety requirements of any currently applicable federal, state, and local laws. **STAFF: The applicant is aware of this requirement.**

- E. A Rehabilitation Home shall provide appropriate 24-hour supervision of its residents and adequate support services for its residents. **STAFF: The rehabilitation home will provide 24-hour supervision of its residents and adequate support services.**

- F. Additional Residential Zoning District Standards:
 - 1. A Rehabilitation Home in a single-family residential zoning district (R-R, R-E, R-1, R-2, R-3, R-4, R-5, or U-N) shall have a maximum of four (4) residents. The maximum number of residents of a Rehabilitation Home in a multi-residential zoning district (R-5A, R-5B, R-6, R-7, or R-8A) shall be determined by the BOZA. **STAFF: The subject property is R-5 Single Family, The applicant has requested up to 14 women to be able to participate in the program at a time. Staff recommends 10 residents due to the square feet of each bedroom. Relief is needed for this Standard because the applicant has requested more than 4 residents.**

 - 2. Any building in which the Rehabilitation Home use is situated shall be

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residential in design and appearance. **STAFF: The rehabilitation home is residential in design and appearance.**

3. New construction within an area having an established front building setback shall be constructed at the average setback line or the minimum front yard of the form district, whichever is less. Structures adjacent to established residential uses shall increase side yards by 10 feet for each story over two (2). **STAFF: No new construction is proposed.**

4. The required parking for the use is set forth in Chapter 9 of this Land Development Code. The BOZA may require additional parking if warranted. **STAFF: Transportation Planning has reviewed and approved the plan. The applicant is proposing 3 to 4 parking spaces in the rear and has 2 on-street spaces in the front. There appears to be plenty of on-street parking in the immediate area.**

5. Signage for the use is permitted in accordance with Chapter 8 of this Land Development Code. The BOZA may further restrict signage if warranted. **STAFF: No signage is proposed.**

G. Additional Nonresidential Zoning District Standards:

1. The maximum number of residents of a Rehabilitation Home in a nonresidential zoning district shall be determined by the BOZA. **STAFF: Applicant has been informed of this requirement.**

2. 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. **STAFF: Applicant has been informed of this requirement.**

3. Signage for the use is permitted in accordance with Chapter 8 of this Land Development Code. The BOZA may further restrict signage if warranted. **STAFF: Applicant has been informed of this requirement.**

H. For a complete application submittal for any Rehabilitation Home 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; **STAFF: Women participating**

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in long-term substance addiction treatment services.

2. The maximum number of residents/beds and maximum number of employees; **STAFF: Maximum number of beds recommended by staff is 10 beds. Applicant is requesting 12 to 14 beds. Maximum number of employees is 3.**

3. Floor plans of any building subject to the use (showing the location and dimensions of all bedrooms and sleeping areas); **STAFF: Floor plans have been provided by the applicant.**

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; **STAFF: The applicant is aware of this requirement.**

5. Rules of conduct and management plan. In the event a conditional use permit for a rehabilitation home 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. **STAFF: The applicant has submitted the rules of conduct and management plan.**

- I. If a Rehabilitation Home 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 with 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. **STAFF: The applicant is aware of this requirement.**

- J. An active license of the Rehabilitation Home, as required by LMCO Chapter 115, shall be maintained. No such 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 in 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 Rehabilitation Home use,

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a new conditional use permit must be granted if required. **STAFF: The applicant is aware of this requirement.**

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Conditional Use Permit to allow a rehabilitation home in the R-5 Single-Family Zoning District per Land Development Code (LDC) 4.2.31 with relief from standard F1 based on the staff report and staff's recommendation of no more than 10 residents, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a rehabilitation home use until further review and approval by the Board.
3. Prior to lawful commencement of the rehabilitation home use the applicant shall obtain all permits and necessary approvals required by the Office of Construction Review and other governmental agencies.
4. Maximum full-time occupancy shall be limited to 13 persons, or the maximum allowed by the property maintenance code (the persons include 10 residents and 3 staff members).

The vote was as follows:

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

ABSENT: Member Vozos and Chair Bond.

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

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Case No. 23-CUP-0040

00:38:53 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 waiver will not adversely affect adjacent property owners, as there is no new development of the site; and

WHEREAS, the Board further finds that the waiver will not violate Plan 2040 since the site is residential in design and appearance with no new proposed construction; and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant considering the applicant would have to remove a historical home to meet the required buffers; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land. The landscape buffer would take up a majority of the site making it unbuildable. The applicant is not proposing any new construction and the subject site remain residential in character; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested 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.

The vote was as follows:

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

ABSENT: Member Vozos and 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:

00:40:09 Vice Chair Buttorff said it was his understanding that the appellant's attorney and the County Attorney's Office is talking through some issues. Both have agreed to continue this case to the June 5, 2023 Board of Zoning Adjustment meeting.

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** this case to the **June 5, 2023** Board of Zoning Adjustment meeting.

The vote was as follows:

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

ABSENT: Member Vozos and Chair Bond.

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PUBLIC HEARING

Case No. 23-APPEAL-0002

***NOTE: The following case was heard out of order. It was originally #18 on the published agenda.**

Request:	Appeal of an administrative decision regarding zoning enforcement.
Project Name:	Burlingame Court Appeal
Location:	8605 Burlingame Court
Owner:	Daniel Most
Appellant:	Daniel Most
Representative:	Bardenwerper, Talbot & Roberts, PLLC
Jurisdiction:	Louisville Metro
Council District:	23 - Jeff Hudson
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:

00:41:11 Chris French said that the applicant has requested that this appeal case be withdrawn. The applicant will be filing for a Conditional Use Permit for a boarding house. Laura Ferguson, legal counsel for the Board, said that no vote is required on this case because the appeal is being withdrawn. She said that, as far as enforcement is concerned, the violation stands.

No vote or action was taken on this case.

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Case No. 23-VARIANCE-0025

Request: Multiple variances related to a proposed office building in the City of St. Matthews
Project Name: 141 Office
Location: 141 Chenoweth Ln
Owner: CATDAWGS141, LLC
Applicant: CATDAWGS141, LLC
Representative: Ted Bernstein, LDD Inc.
Jurisdiction: City of St. Matthews
Council District: 9 - Andrew Owen
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:

00:42:41 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.) He discussed the current zoning of the subject site (C-1) and said it shares a boundary with an R-4 property. The fence height addresses the buffering concerns with the R-4 property behind the subject site.

The following spoke in favor of the proposal:

Ted Bernstein, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

Scott Ferguson, 141 Chenoweth Lane, Louisville, KY 40207

Summary of testimony of those in favor of the proposal:

00:46:44 Ted Bernstein, the applicant's representative, presented the applicant's case, showed a Power Point presentation, and responded to questions from the Board

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members (see recording for detailed presentation.) He said the applicant is proposing a wood privacy fence but could use vinyl if that would be preferred. A proposed waiver will be going before the Louisville Metro DRC committee.

00:52:53 Mr. Bernstein responded to questions regarding two large trees on the property, and sharing parking with two other businesses on the site (see recording for detailed discussion.)

00:55:29 In response to questions from Member Horton, Scott Ferguson, the applicant, said he would be willing to work with a certified arborist to protect the large tree in the right-of-way during construction (see recording for detailed discussion.) Mr. Ferguson added that he is aware of the shared parking agreement and the shared ingress/egress for the three buildings, and that will not be blocked during construction. He noted that there is a basement in the existing structure and there will be a basement in the new structure.

The following spoke in opposition to the request:

Ellen Kuhn, 143 Chenoweth Lane, Louisville, KY 40207

Summary of testimony of those in opposition:

00:57:50 Ellen Kuhn said she owns one of the buildings on this property, which she rents to a hair salon. She said she is concerned because there do not appear to be any plans/proposed uses for the building, and is concerned about sight lines when exiting the parking lot onto Kennison. The fence along the back of the property slopes down towards the entrance so drivers can see when they exit. In response to questions from Vice Chair Buttorff, Joe Haberman, Planning Manager, said the applicant was not required to do a traffic study. Ms. Kuhn answered some questions about the back fence.

Rebuttal:

01:06:37 Mr. Bernstein delivered rebuttal (see recording for detailed presentation.) He discussed the proposed use; parking; traffic; and water and erosion control; the fence and sight triangle.

01:11:38 In response to questions from Member Leanhart, Mr. Bernstein discussed measures to not disrupt the other businesses on the site. Laura Ferguson, legal counsel for the Board, reiterated that the only actions before the Board today are regarding the variances. The waiver and the overall development plan will be

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considered by the Development Review Committee, so there will be another public hearing that opposition can attend.

01:15:27 The location of the applicant's proposed six-foot privacy fence was discussed. Mr. Lawler said the case is scheduled to go before the DRC Committee on June 14, 2023.

01:17:38 Board Members' deliberation.

(Variance #1) Variance from Section 6.3.C.2.e to permit the proposed building to encroach into the Kennison Avenue variable street side yard by 3'

01:19:35 On a motion by Member Ford, seconded by Member Horton, 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 since the encroachment is adjacent to a right of way; and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the encroachment is adjacent to a right of way and since the building faces the primary street and has a similar appearance from the primary street as nearby properties; and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the encroachment is adjacent to a right of way; and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the encroachment is adjacent to a right of way; and

WHEREAS, the Board further finds that the property is a corner lot where the existing structure has some encroachment into the same street side yard; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from Section 6.3.C.2.e to permit the proposed building to

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PUBLIC HEARING

Case No. 23-VARIANCE-0025

encroach into the Kennison Avenue variable street side yard by 3 feet, for a for a maximum encroachment of 3 feet into the variable sideyard setback.

The vote was as follows:

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

ABSENT: Member Vozos and Chair Bond.

(Variance #2) Variance from Section 9.1.B.1.a to permit a 6' fence instead of a 4' fence (2' variance)

01:23:19 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 fence must be constructed to comply with all building codes and 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; and

WHEREAS, the Board further finds that the requested variance does not alter the essential character of the general vicinity as there are other wooden fences providing screening at the rear of properties along Chenoweth lane; and

WHEREAS, the Board further finds that 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; and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since 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; and

WHEREAS, the Board further finds that the requested variance arises from special circumstances which do generally apply to land in the general vicinity or the same zone

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as the property is a corner lot and the screening is required between the two zoning districts; 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 applicant would not be able to provide the required screening between the lot and the adjacent lower intensity zoning; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from Section 9.1.B.1.a to permit a 6 foot fence instead of a 4 foot fence (variance is 2 feet.)

The vote was as follows:

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

NO: Member Leanhart.

ABSENT: Member Vozos and Chair Bond.

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Case No. 23-VARIANCE-0028

Request: VARIANCES for a structure to encroach into the side yard setback, a fence to exceed the maximum height in the front yard setbacks, and a WAIVER for the required 5 ft. landscape buffer area.

Project Name: Logan Street Enclosure
Location: 1110 Logan Street
Owner: Fam1 Reality Group LLC
Applicant: Ibraheem Abdallah
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:

01:24:42 Chris French, Planning Supervisor, presented the case on behalf of Amy Brooks, 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 proposal:

Ibraheem Abdallah, 110 Logan Street, Louisville, KY 40204

Summary of testimony of those in support:

01:29:28 Ibraheem Abdallah, the applicant, presented the case and responded to questions from the Board Members (see recording for detailed presentation and discussion.)

01:33:22 In response to questions from Member Leanhart, Mr. Abdallah discussed the fence (see recording.) Mr. French said staff's concern is the sight line when pulling out of the driveway onto Chester Avenue. He explained that this property has a dual

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frontage, on both Logan Street and Chester Avenue. This is why the height of the fence is limited to 42 inches. Mr. Abdallah said the property is currently vacant but will most likely be office space on the first floor, with two apartments on the second floor. The parking area will be secured with the fence and a motorized gate with a code to open it. In response to questions from Member Ford, Mr. French said that chain link fence could potentially eliminate the visibility issues.

The following spoke in opposition:

No one spoke.

01:39:46 Board Members' deliberation.

01:42:00 In response to questions from the Board members, Mr. French said the applicant would have to move the gates back 15 feet from the property line on Chester Avenue to eliminate the need for a variance. Mr. Abdallah resumed the podium to discuss the materials (chain link vs. wood) and the setback (15 feet would still be required.) Mr. Abdallah said he would be willing to move his fence back 15 feet. Laura Ferguson, legal counsel for the Board, said that only left the Logan Street variance was left to consider.

01:43:37 Board Members resumed deliberation.

01:46:51 Mr. Abdallah discussed possible alterations to the rear fence (see recording for very detailed discussion.)

Waiver from Land Development Code section 10.2.10.A to not provide a five-foot landscape buffer area between any lot containing a vehicular use area and a non-residentially zoned lot with a first floor residential use.

02:17:41 On a motion by 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 request not to provide the landscape buffer area will not affect adjacent property owners. The applicant is planning to provide continuous 8-foot screening between both neighboring

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properties and the subject site thereby mitigating possible disturbance from the parking area; and

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

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as they are applying for the waiver to bring existing site conditions into compliance. The lot is rather narrow and does not allow for enough room for a landscape buffer on both property lines. The area where the buffers are required are along other parking or private yard areas of the adjacent properties; and

WHEREAS, the Board further finds that the strict application has incorporated other design measures that exceed the minimums of the district including providing an eight-foot screen along the perimeter property lines in the rear of the building that are adjacent to single-family residential uses; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Waiver from Land Development Code section 10.2.10.A to not provide a five-foot landscape buffer area between any lot containing a vehicular use area and a non-residentially zoned lot with a first floor residential use.

The vote was as follows:

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

ABSENT: Member Vozos and Chair Bond.

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Case No. 23-VARIANCE-0028

Variance from the Land Development Code section 5.2.2 allow a structure to encroach into the side yard setback.

02:18:56 On a motion by Leanhart, 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 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 structure will not alter the essential character of the general vicinity as there are primary structures along this stretch of Logan Street that seemingly encroach into the side yard setback. The principal structures at 1108 and 1112 Logan Street are comparable examples; 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 because the breezeway location is like other primary structures along the block that are built into the side setback. Additionally, OR-2 zoned properties have no side yard setback unless they are adjacent to single-family residential uses. Had the surrounding properties not been single-family uses, there would have been no minimum setback from the adjacent property; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variance from the Land Development Code section 5.2.2 allow a structure to encroach into the side yard setback.

The vote was as follows:

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

ABSENT: Member Vozos and Chair Bond.

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Variance from Land Development Code section 4.4.3.A.1.a.i to allow a fence to exceed the maximum height in the front yard setbacks (BOTH Chester Avenue and Logan Street)

02:21:55 On a motion by 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:

(Chester Avenue) WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the height of the fence in the front yard setback along Chester Avenue may cause a potential issue to the public because there is limited room for vehicular maneuverability that could provide an impediment when entering/exiting the rear parking lot on the subject site. The width of Chester Avenue is around 15 feet when measured on GIS; 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 not create an unnecessary hardship on the applicant as there is sufficient open space to move the required fence out of the required 15-foot front yard setback; and

WHEREAS, the Board further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The applicant has already completed construction on the fence; and

(Logan Street) WHEREAS, the Board further finds that the requested variance will alter the essential character of the general vicinity because, while there is a fence at 1112 Logan that is seemingly the same height and constructed with similar material, most of the fences in the block adhere to the maximum height regulations as prescribed by the Land Development Code for the Traditional Neighborhood form district. In addition, there is no indication that the fence at 1112 Logan Street was approved to exceed 42 inches when it was constructed in 2021 or 2022. (Please see site photos for example); and

WHEREAS, the Board further finds that the requested variance will allow an unreasonable circumvention of the zoning regulations because the fence could be modified or shifted back to bring the site into compliance with the LDC; and

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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 not create an unnecessary hardship on the applicant as the fence could be modified or reduced to meet current regulations; and

WHEREAS, the Board further finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The applicant has already completed construction on the fence; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the requested Variance from Land Development Code section 4.4.3.A.1.a.i to allow a fence to exceed the maximum height in the front yard setbacks for both Chester Avenue and Logan Street.

The vote was as follows:

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

ABSENT: Member Vozos and Chair Bond.

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Case No. 23-VARIANCE-0036

Request: VARIANCES for a structure to encroach into the side yard and front yard setbacks
Project Name: Comfort Care Home Variance
Location: 1427 Story Ave
Owner: Karen Cassidy, Hildegard House Inc.
Applicant: IMark Clore
Jurisdiction: Louisville Metro
Council District: 4- Jecorey Arthur
Case Manager: Amy Brooks, Planner I

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:

02:36:43 Chris French, Planning Supervisor, presented the case on behalf of Amy Brooks, showed a Power Point presentation, and responded to questions from the Board members (see staff report and recording for detailed presentation and discussion.)

The following spoke in support of the request:

Karen Cassidy, 710 Indian Ridge Road, Louisville, KY 40207

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

Summary of testimony of those in support:

02:39:29 Karen Cassidy, representing the applicant, handed out a photo of Hildegard House and the alley to the Board members and presented the case (see recording for detailed presentation.) She noted that there has been much neighborhood support, including from the Butchertown Neighborhood Association.

02:49:21 Ann Ramser spoke in support (see recording.)

The following spoke in opposition to the request:

No one spoke.

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02:50:18 Board Members' deliberation.

Variations from the Land Development Code Table 5.2.2 to allow a primary structure to encroach into the side yard setback AND rear yard setbacks.

02:50:57 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:

(Variance #1 – Side Yard Setback) WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare, 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 structure will not alter the essential character of the general vicinity as it has been built with material that is in character with the surrounding residential neighborhood. The proposed renovations have been reviewed for conformance to the Butchertown Historic Preservation District guidelines; 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 structure is compatible with other development in the area. There are principal structures at 1435 and 1437 Story Ave that appear to encroach into the side yard setback. (Please see aerial photograph for example.); 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 residential care home must provide a roofed area for its patients being transported to and from the facility; 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. The applicant has not begun construction and has applied for a variance; and

(Variance #2 – Rear Yard Setback) 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. In addition, the proposed addition will not impact vision clearance for vehicular traffic maneuvering along Bowles Ave, which measures approximately 18 ft in width using GIS; and

WHEREAS, the Board further finds that the proposed structure will not alter the essential character of the general vicinity as it has been built with material that is in character with the surrounding residential neighborhood. The proposed renovations have been reviewed for conformance to the Butchertown Historic Preservation District guidelines; 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 structure is compatible with other development in the area. There are houses on Quincy Street which encroach into heavily into the rear yard setbacks. Hence, this request seems compatible with the established pattern of setbacks within the surrounding area. (See example under site photos.); 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 generally vicinity or the same zone as the lot is similar in size and shape to the surrounding properties. The existing structure's front yard setback is greatly recessed from Story Avenue; and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the residential care home must provide a roofed area for its patients being transported to and from the facility. In addition, the principal structure is recessed heavily from Story Ave limiting the available area for the required rear yard; 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. The applicant has not begun construction and has applied for a variance; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the requested Variances from the Land Development Code Table 5.2.2 to allow a primary structure to encroach into the side yard setback **AND** rear yard setbacks. The Board does not find an issue with standard A because the applicant will communicate and work with the neighboring property owner to avoid a trespassing issue.

The vote was as follows:

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

ABSENT: Member Vozos and Chair Bond.

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PUBLIC HEARING

Case No. 22-VARIANCE-0119

Request: **TO BE CONTINUED TO A DATE UNCERTAIN** - 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 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:
None.

02:52:41 On a motion by Member Howard, seconded by Member Horton, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** this case to a date uncertain.

The vote was as follows:

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

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Case No. 23-NONCONFORM-0001

Request: Nonconforming Rights Application for a duplex
Project Name: Duplex
Location: 719 W Kenwood Dr
Owner: Victoria Quibell -Tran Le LLC
Applicant: Victoria Quibell
Jurisdiction: Louisville Metro
Council District: Betsy Ruhe - District 21
Presenter: Christopher French, AICP, Planning Supervisor
Case Manager: Ian Sexton, Associate Planner

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:

02:53:45 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.)

The following spoke in favor of the request:

Victoria Quibell, 719 West Kenwood Drive, Louisville, KY 40214

Summary of testimony of those in favor:

02:56:13 Victoria Quibell, the applicant, presented the case and responded to questions from the Board members (see recording for detailed presentation and discussion.) She said she bought this property in July of 2022, as a duplex (separate meters, etc.). It has not been rented out since she bought it.

02:58:00 Staff and the Board members discussed the continued use of the property as a duplex (see recording and staff's analysis in the staff report.)

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The following spoke in opposition to the request:

Ann Ramser, 309 East Kenwood Drive, Louisville, KY 40214

Summary of testimony of those in opposition:

02:59:57 Ann Ramser said that staff said that this property has been used as a duplex since 2001 but that is not reflected in the report. Mr. French said that the property has been listed as a duplex since 2001 according to the Caron's directories. He also noted that Caron's directories are not the sole determination as to whether a property has non-conforming rights. Ms. Ramser said she is opposed to this because this is a single-family residential neighborhood and said that the house is unsafe. She also showed a Power Point presentation (see recording for detailed presentation and discussion.)

Rebuttal:

03:08:08 Ms. Quibell presented rebuttal (see recording.)

03:10:15 Board members' deliberation.

03:18:55 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 structure was built before 1971; appears to have been constructed as a duplex and has been used as a residence for two families since it was constructed; and that the Caron's directory and other evidence supports that the structure was more or less continually used as a duplex from 1988 to the present; now therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby determine that the subject property has nonconforming rights for a duplex effectively back to 1971.

The vote was as follows:

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

ABSENT: Member Vozos and Chair Bond.

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Case No. 23-NONCONFORM-0005

Request:	Nonconforming Rights Application for a tavern/bar
Project Name:	Nonconforming rights
Location:	3800 Cane Run Road
Owner:	Ricardo E. Acosta
Applicant:	Ricardo E. Acosta
Jurisdiction:	Louisville Metro
Council District:	Tammy Hawkins - District 1
Case Manager:	Ian Sexton, Associate Planner

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:

03:21:06 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.)

03:25:07 In response to questions from Member Howard, Mr. French confirmed that the M-2 zoning category does not allow C-2 uses. There is an existing building on the site.

The following spoke in support of the request:

Ricardo Acosta, 6115 Rocky Mountain Drive, Louisville, KY 40219

Summary of testimony of those in support:

03:26:05 Ricardo Acosta, the applicant, presented the case and responded to questions from the Board members (see recording for detailed presentation and discussion.) He said he owns the properties behind and on both sides of the site. Mr.

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Acosta discussed where he is in the process of getting the ABC license. He said he as not enlarged the space in any way.

03:32:17 Laura Ferguson, legal counsel for the Board, explained some of the historical, legal and zoning aspects of this request (see recording.)

The following spoke in opposition to the request:

No one spoke.

03:37:04 Board Members' deliberation

03:38:48 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:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **DENY** the requested nonconforming use as an established activity that lawfully existed at the time of the enactment of any zoning regulations which would not permit such activity, more specifically the rezoning of the property from the EZ-1 zone to the M-2 zone.

The vote was as follows:

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

ABSENT: Member Vozos and Chair Bond.

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Case No. 23-NONCONFORM-0006

Request: Nonconforming Rights Application for a parking area for automobiles and heavy trucks that serve the adjacent industrial use.

Project Name: Nonconforming rights

Location: N 32nd St (West abutting property to 101 N 32nd St)

Owner: West End Transportation Partners

Applicant: Charles Podgursky

Jurisdiction: Louisville Metro

Council District: Donna Purvis - District 5

Presenter **Christopher French, AICP, Planning Supervisor**

Case Manager: **Mark Pinto, Associate Planner**

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:

03:39:52 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).

The following spoke in favor of the request:

Kyle Galloway, **Duncan Galloway Greenwald, PLLC**, 9625 Ormsby Station Road, Louisville, KY 40223

Sam Hageman, 1652 Felix Avenue, Memphis, TN 38114

Summary of testimony of those in favor:

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03:44:13 Kyle Galloway, 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 and discussion.)

03:50:14 Sam Hageman, the applicant, gave a brief history of previous ownership and briefly outlined plans for the site (see recording.)

03:52"23 Mr. Galloway clarified the location of the proposed rebuild.

The following spoke in opposition to the request:

No one spoke.

03:53:05 Board Members' deliberation

03:54:40 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:

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/s which would not permit such activity, specifically to operate as a parking lot for automobiles and heavy trucks to serve the adjacent industrial use.

The vote was as follows:

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

ABSENT: Member Vozos and Chair Bond.

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PUBLIC HEARING

Case No. 22-CUP-0077

Request: Conditional Use Permit for an Accessory Dwelling Unit in the R-4 Zoning District
Project Name: Walter Avenue Accessory Dwelling Unit
Location: 9101 Walter Avenue
Owner: 3 Bears Ventures, LLC
Applicant: Pamela Smith & Amber Willetts
Jurisdiction: Louisville Metro
Council District: 24 -Madonna Flood
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:

03:55:57 Heather Pollock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation).

04:00:25 In response to questions from Member Howard, Ms. Pollock discussed Item 4B (See recording.)

The following spoke in favor of the request:

Pamela Smith, 9101 Walter Avenue, Louisville, KY 40229

Amber Willetts, 9101 Walter Avenue, Louisville, KY 40229

Summary of testimony of those in favor:

04:01:31 Pamela Smith, an applicant, presented the case, showed a Power Point presentation, and responded to questions from the Board members (see recording for detailed presentation.) She explained the locations of rooms in the proposed living

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space. She said she and her daughter currently live in the main house, but wish to finish the garage apartment and rent it.

04:07:54 Amber Willetts said the top floor is completely detached from the bottom section and will be used only for storage. There is no access to the second story except from the outside.

04:09:48 In response to questions from member Horton, Ms. Willitts said the garage portion is currently being used for storage. The accessory unit was built before they bought the property. No work has been done except the addition of the garage door. Ms. Pollock said that building permits had been pulled, but have been on hold until this hearing is complete.

04:11:14 In response to questions from Vice Chair Buttorff, Ms. Smith discussed why she bought the property under an LLC (see recording for detailed discussion.) Joe Haberman, Planning Manager, discussed the standards which require the primary resident/s to live there. Ms. Willetts said she is part of the LLC, and that she will be living in the main house. Mr. Haberman noted that an LLC is a company, not an individual. See recording for detailed legal discussion.

The following spoke in opposition to the request:

No one spoke.

04:16:09 Board Members' deliberation

Laura Ferguson, legal counsel for the Board, discussed a Condition of Approval which may address some legal ownership issues.

04:20:00 The Board came out of deliberation to allow the applicants to answer some questions regarding ownership and the LLC (see recording.) Ms. Smith noted that this process has taken a long time and is now creating some financial hardship.

Conditional Use Permit to allow an Accessory Dwelling Unit in the R-4 Single Family zoning district and the Neighborhood form district. (LDC 4.2.3)

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04:26:00 On a motion by Member Howard, seconded by Member Leanhart, 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

WHEREAS, the Board further finds that accessory dwelling units that do not meet the provisions of Section 4.3.27 may be allowed in the R- R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N districts upon the granting of a conditional use permit and compliance with the listed requirements.

A. One ADU, either attached or detached is permitted per single family dwelling per lot. **STAFF: *The applicant has been informed of this requirement. The proposed accessory dwelling unit will occur on the 1st floor of the detached garage.***

B. Maximum ADU Size: 800 square feet or 30 percent of the gross floor area of the principal structure, whichever is greater. **STAFF: *The proposed accessory dwelling unit will be 861 sq. ft.***

C. Location Requirements:

1. For an attached ADU, the yard or setback requirements of the principal structure shall be met. The attached ADU shall be located either to the side or behind the principal structure.

2. For a detached ADU, the yard or setback requirements of an accessory structure shall be met. The detached ADU shall be located either to the side or behind the principal structure.

STAFF: *The applicant has been informed of this requirement. The structure is existing and appears to meet all setback requirements.*

D. ADU Access:

1. For an attached ADU, an exterior staircase used to access a second story or

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higher ADU shall not be located on the front façade of the structure.

2. For a detached ADU, the exterior pedestrian entrance to the ADU shall be located facing the principal structure or side yard.

STAFF: *The applicant has been informed of this requirement. The entrance to the ADU faces the principal structure.*

E. Maximum Height:

1. For an attached ADU, the maximum height shall not exceed the height of the principal structure.

2. For a detached ADU, the maximum height shall not exceed the maximum height permitted for an accessory structure in accordance with Chapter 5 of the LDC. The maximum height shall not exceed the height of the principal structure.

STAFF: *The existing accessory structure is currently taller than the primary structure.*

F. ADUs approved under this provision shall not be used as a short term rental.

STAFF: *The applicant has been informed of this requirement.*

G. Any property that has been subject to a zoning, property maintenance, or building code violation(s) in the 12 months prior to application shall be reviewed and approved by the directors of Planning & Design Services and Codes & Regulations, or their designees. Any violations shall be resolved prior to approval.

STAFF: *The applicant has been informed of this requirement.*

H. Off-street parking shall meet the requirements of Chapter 9 of the LDC.

STAFF: *The applicant has been informed of this requirement. There are 2 existing driveways as well as a 1 car garage and a carport.*

I. ADUs that include new construction that results in habitable floor area (for example, additions to principal structures or new accessory structures) shall not be allowed on any areas of lots that contain environmental constraints (LDC Section 4.6.2.A)

STAFF: *The applicant has been informed of this requirement.*

J. The owner of the property shall reside within either the principal or the accessory dwelling unit. **STAFF: *The applicant has been informed of this requirement. This property is owned by an LLC.***

K. To avoid any confusion, since there is no language to the contrary, this section does not override any deed restriction or homeowners' association declarations

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restricting accessory dwelling units. **STAFF: *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 an Accessory Dwelling Unit in the R-4 Single Family zoning district and the Neighborhood form district. (LDC 4.2.3), and does hereby **GRANT** relief from Item 4B because there is only a 61 square foot difference in the requirement; and does hereby **GRANT** relief from Item 4E (2) because the accessory structure is existing. The Board does **NOT** grant relief from Item J which requires that the property owner must reside within either the principal or the accessory dwelling unit, but the property is currently owned by an LLC, not an individual. Approval is granted **SUBJECT** to the following Conditions of Approval:

Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for an accessory apartment without further review and approval by the Board.

The vote was as follows:

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

ABSENT: Member Vozos and Chair Bond.

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Case No. 23-CUP-0002

Request: Conditional Use Permit for Short Term Rental of a Dwelling Unit That is Not the Primary Residence of the Host
Project Name: William Street Short Term Rental
Location: 166 William Street
Owner/Applicant: Jodi Bessinger & Joshua Swetnam
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:

04:29:10 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:

Jodi Bessinger and Josh Swetnam, 1628 Dunbarton Wynde, Louisville, KY 40205

Summary of testimony of those in support:

04:31:49 Josh Swetnam and Jodi Bessinger presented the case and responded to questions from the Board members (see recording for detailed presentation.) Ms. Bessinger explained that, according to Ms. Pollock, some email communications to the case manager were accidentally routed by Metro IT into the “junk” folder and were not received by Ms. Pollock in a timely manner. Ms. Bessinger and Mr. Swetnam gave a detailed account of the timelines and activities regarding this request. Ms. Bessinger noted that another CUP on William Street that has been approved had not been submitted when she and Mr. Swetnam began their process.

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04:43:18 In response to questions from member Leanhart, Ms. Bessinger and Mr. Swetnam said the property behind theirs on Mellwood is a commercial warehouse with a parking lot.

04:44:17 In response to questions from Vice Chair Buttorff, Ms. Pollock reviewed the timelines between this and a different case on William Street (see recording.)

The following spoke in opposition to the request:

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

Phil Samuel, 3 Angora Court, Louisville, KY 40206

Summary of testimony of those in opposition:

04:45:27 Phil Samuel, speaking on behalf of the Clifton Community Council, said the Council Board opposes the request and read their letter into the record (on file.) He added that the Board opposes short term rentals in the area because those reduce long term housing and residents in the neighborhood.

01:48:58 Ann Ramser said she wants the 600-foot rule enforced. She said the applicant is responsible for following up with communications to staff, and that this information is available online (see recording for detailed presentation.)

Rebuttal:

04:51:51 Ms. Bessinger noted that she and Mr. Swetnam joined the Clifton Community Council and discussed the importance of supporting other commercial uses in this area. Mr. Swetnam addressed the timeline of events (see recording for discussions.)

04:55:46 Board Members' deliberation.

04:59:06 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:

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WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that, as of the date of this hearing, within 600' of the subject property, there is 1 property with an approved conditional use permit allowing short term rentals that is not the primary residence of the host. The applicant is requesting relief to the provision (applicant justification is attached to this agenda item), 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; 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 because there is already a short-term rental property within the 600 buffer.

The vote was as follows:

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

ABSENT: Member Vozos and Chair Bond.

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Case No. 23-CUP-0023

Request: A Conditional use permit to allow a short-term rental of a dwelling unit that is not the primary residence of the host in the TNZD zoning district

Project Name: S 2nd Street Short Term Rental

Location: 1342 S 2nd Street

Owner/Applicant: Murphy & Klein Property Management

Representative: Murphy & Klein Property Management

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:

05:00:37 Chris French, Planning Manager, 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:

Michael McClain, Goldberg Simpson, 9301 Dayflower Street, Louisville, KY 40059
Erin Klein, Murphy & Klein Property Management, 1245 Plum Ridge Road, Louisville, KY 40071

Summary of testimony of those in favor:

05:02:45 Michael McClain, an applicant's representative, presented the applicant's case and responded to questions from the Board members (see recording for detailed presentation.)

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05:07:10 Erin Klein, the applicant, read a statement into the record outlining the project (see recording.)

The following spoke in opposition to the request:

Ann Ramser, 307 East Kenwood Drive, Louisville, KY 40214
Helga Ulrich, 112 East Ormsby Avenue, Louisville, KY 40203

Summary of testimony of those in opposition:

05:11:29 Helga Ulrich discussed the existing short-term rentals in the neighborhood, and said Old Louisville is already “saturated”. She discussed parking issues and said parking is already a problem on this block. She noted that the current owners now live in Taylorsville, over 30 miles away. She said the rental was listed on AirBnB in April of last year, and has been rented out since. She discussed the LLC and the timing of when it was created (see recording.)

05:16:12 Ann Ramser said she is opposed due to the violation of the 600-foot rule. She said the reason for the 600-foot rule is because residents want community, not to have neighborhoods become a hotel district. She said she could not find the LLC listed with the Secretary of State; and also questioned when the property was transferred to the LLC. She said there are already five short-term rental properties within 600 feet (see recording.)

Rebuttal:

05:19:31 Mr. McClain and Ms. Klein presented rebuttal (see recording.)

05:25:23 Board Members’ deliberation

05:26:20 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:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that, as of the date of this hearing, within 600’ of the subject property, there are 5 properties with an approved conditional use permit allowing short term rentals that is not the primary

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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 dwelling unit that is not the primary residence of the host in the TNZD zoning district and Traditional Neighborhood Form District, because there are multiple short-term rentals already existing within the 600-foot buffer area around this property.

The vote was as follows:

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

ABSENT: Member Vozos and Chair Bond.

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Case No. 23-CUP-0066

Request: A Conditional use permit to allow Bed and Breakfast Inn in the TNZD zoning district
Project Name: S 3rd Street Bed and Breakfast Inn
Location: 1355 S 3rd Street
Owner/Applicant: William Gilbert & Dale Strange
Representative: William Gillbert & Dale Strange
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:

05:27:36 Chris French, Planning Manager, 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:

William Gilbert, 1355 South 3rd Street, Louisville, KY 40208
Ann Ramser, 307 East Kenwood Drive, Louisville, KY 40214

Summary of testimony of those in favor:

05:30:57 William Gilbert presented the case and responded to questions from the Board members (see recording for detailed discussion.) He said he has lived in the house for 30 years, and would contract with a company to run the inn for him. He said he will continue to live on the property in the carriage house.

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05:35:56 Ann Ramser spoke in support and said this use would be an asset to the neighborhood (see recording for detailed presentation.)

The following spoke in opposition to the request:

No one spoke.

05:36:40 Board Members' deliberation

05:36:52 On a motion by Member Howard, seconded by Member Leanhart, 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

WHEREAS, the Board further finds that Bed and Breakfast Inns may be allowed in the R-R, R-1, R-2, R-3, R-4, R-5, U-N, TNZD (in effect within Louisville Metro only), R-5A, R-5B, R-6, M-1, PRO, PTD, PRD, W-1, W-2, and W-3 (Note: Revision proposed by Louisville Bed and Breakfast Association) Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements.

A. No more than nine (9) guest rooms shall be permitted, and a maximum of two adults shall be allowed per guest room. However, the Board of Zoning Adjustment may impose a lower limit on the number of guest rooms after considering the size of the building, the size of the property, the economics of the proposal, and the effect on surrounding properties. **STAFF: The applicant is proposing 8 guestrooms.**

B. Guests are limited to a length of stay no more than 14 consecutive days. The resident innkeeper or owner shall keep a current guest register including

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names, permanent addresses, dates of occupancy, and motor vehicle license number of all guests. **STAFF: Applicant has been informed of this requirement.**

- C. Bed and Breakfasts may provide food service or space for indoor meetings provided all applicable food service and capacity regulations are complied with. No food preparation is allowed in any guest bedroom. **STAFF: Applicant has been informed of this requirement.**

- D. Bed and Breakfast Inns in residential zoning districts shall be required to comply with the requirements of Section 4.3.7 and obtain a temporary activities permit for any outdoor activities and/or events that are attended by anyone that is not a current registered overnight guest of the Bed and Breakfast Inn. This provision shall not be altered or waived by the Board. **STAFF: Applicant has been informed of this requirement.**

- E. Any signage which identifies the use shall be in accordance with the underlying zoning and form district standards. **STAFF: There is no proposed signage.**

- F. The location of parking shall comply with the same parking standards as a single family detached dwelling unit, except any additional parking beyond what can be accommodated in a driveway no wider than to sufficiently park two (2) cars must be out of the required setback and yards as specified in the underlying Form District requirements. Parking for guests shall not be served by a separate driveway from that serving the principal residential structure. **STAFF: Applicant is meeting this requirement.**

- G. Conditional use permits for Bed and Breakfast Inns in residential zoning districts issued prior to the effective date of this ordinance (March 9, 2011) may continue to operate as authorized under the approved conditional use permit. Upon request by an applicant, such conditional use permits may be modified in any manner the Board determines, in its discretion to be appropriate. **STAFF: 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 a Bed and Breakfast Inn in the TNZD zoning district (LDC 4.2.9), **SUBJECT** to the following Conditions of Approval:

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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 bed and breakfast inn without further review and approval by the Board.

The vote was as follows:

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

ABSENT: Member Vozos and Chair Bond.

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PUBLIC HEARING

Case No. LIC-STA-23-00359

Request:	Short Term Rental Host Residency Hearing - TO BE CONTINUED TO A FUTURE DATE
Project Name:	Host Bryce Garris
Location:	721 Henry Firpo St
Owner:	PARSII, ON FIRPO LLC
Applicant:	n/a
Representative:	Bryce Garris
Jurisdiction:	Louisville Metro
Council District:	4 - Jecorey Arthur
Case Manager:	Joseph Haberman, Planning & Design Manager

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

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

Agency testimony:

05:38:38 Joe Haberman, Planning & Design Manager, discussed the case. He said the host had not contacted staff until this morning and is not present at today's hearing. See recording for detailed discussion.

05:39:52 On a motion by Member Leanhart, seconded by Member Horton, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** this case to a date uncertain.

The vote was as follows:

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

ABSENT: Member Vozos and Chair Bond.

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PUBLIC HEARING

Case No. LIC-STA-23-00614

Request:	Short Term Rental Host Residency Hearing
Project Name:	Host Wayne Gallavin
Location:	2509 Top Hill Rd
Owner:	2509 TH Land Trust
Applicant:	n/a
Representative:	Wayne Gallavin
Jurisdiction:	Louisville Metro
Council District:	9 - Andrew Owen
Case Manager:	Joseph Haberman, Planning & Design Manager

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

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

Agency testimony:

05:40:45 Joe Haberman presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation)

The following spoke in support of the residency:

Wayne Gallavin, 2509 Top Hill Road, Louisville, KY 40206
Christopher Morris, 231 Breckinridge Lane, Louisville, KY 40207

Summary of testimony of those in support:

05:47:27 Christopher Morris, Mr. Gallavin's representative, presented the case (see recording for detailed presentation.)

06:00:27 Wayne Gallavin said he had lived at the property for 2 out of 5 years to "claim [his] 121 Exemption" and responded to questions from the Board members (see recording.)

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06:03:50 Mr. Haberman asked Mr. Gallavin about the frequency he planned to rent short-term versus the amount of time he will be living there. Mr. Morris said Mr. Gallavin has stayed at the property 50% of the time, and gave a brief overview of how often he would be renting the premises (see recording.)

06:09:20 In response to questions from Mr. Haberman, Mr. Morris confirmed that Mr. Gallavin would be the primary and functional host of this short-term rental. Mr. Morris said there may have been some issues due to the go-between of the property management company.

The following spoke in opposition to the residency:

Rosella Rudd, 2508 Top Hill Road, Louisville, KY 40206
Stephen Watkins, 2505 Top Hill Road, Louisville, KY 40206
David Habich, 2515 Top Hill Road, Louisville, KY 40206

Summary of testimony of those in opposition:

06:11:21 David Habich said he is retired and is home most of the time, and has yet to see a moving truck at this property. He described issues with the property and the poor management. He said the last party had 17 people in the front yard, well over the permitted number of guests. He said he and his neighbors have sent emails to Mr. Haberman and called MetroCall regarding issues with this site ever since it became a short-term rental.

06:14:08 Stephen Watkins said that, since he testified at the April 24, 2023 BOZA hearing about this issue, he has checked the house twice a day every day since then. He said his results show that Mr. Gallavin does not live there. He discussed the LLC's and tax issues (see recording for detailed presentation.) In response to questions from member Horton, Mr. Watkins reiterated his reasons for believing that Mr. Gallavin does not live there.

06:27:22 Rosella Rudd discussed property management issues (see recording for detailed presentation.)

Rebuttal:

06:30:53 Mr. Morris delivered rebuttal, including dates he says Mr. Gallavin stayed at the residence. Mr. Gallavin also presented a statement (see recording for detailed presentation.)

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06:42:24 In response to questions from Member Howard, Mr. Gallavin stated that he is the host and will live on the property. Mr. Haberman explained the previous situation on the property (see recording.)

06:45:19 Board Members' deliberation

06:56:30 On a motion by Member Leanhart, seconded by Member Ford, the following resolution, based on documentation submitted to the Board of Zoning Adjustment and evidence and testimony heard today, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **ACCEPT** Mr. Gallavin's Statement of Primary Residency is at 2509 Top Hill Road.

The vote was as follows:

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

NO: Member Horton.

ABSTAIN: Member Howard.

ABSENT: Member Vozos and Chair Bond.

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The meeting adjourned at approximately 8:00 p.m.

Chair

Secretary