

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

September 27, 2021

A meeting of the Louisville Metro Board of Zoning Adjustment was held on September 27, 2021 at 1:00 p.m. online via Cisco Webex Video Teleconferencing.

Members Present:

Lula Howard, Chair
Sharon Bond, Secretary
Richard Buttorff
Kimberly Leanhart
Yani Vozos

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Reverman, Planning & Design Assistant Director
Joe Haberman, Planning & Design Manager
Brian Davis, Planning & Design Manager
Zach Schwager, Planner I
Heather Pollock, Planner I
Jay Lockett, Planner I
Tara Sorrels, Associate Planner
Laura Ferguson, Legal Counsel
Sue Reid, Management Assistant

On the recommendation of the Louisville Metro Department of Public Health & Wellness regarding congregate events and social distancing, and as permitted by Commonwealth of Kentucky Senate Bill 150, the September 27, 2021 Board of Zoning Adjustment meeting was held online.

The following cases were heard:

BOARD OF ZONING ADJUSTMENT MINUTES
September 27, 2021

BUSINESS SESSION

BOZA_Election_Officers

BOZA Special Election of Officers

00:05:50 Laura Ferguson, Legal Counsel, opened nominations for Vice Chair.

00:06:36 A motion was made by Board Member Bond, seconded by Board Member Leanhart, that Rick Buttorff be nominated as Vice Chair for the Board of Zoning Adjustment.

There being no further nominations, the election was closed, and the vote was as follows:

Yes: Members Bond, Leanhart, Vozos, and Chair Howard

Abstain: Member Buttorff

**BOARD OF ZONING ADJUSTMENT MINUTES
September 27, 2021**

SEPTEMBER 13, 2021 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:09:10 On a motion by Member Bond, seconded by Vice Chair Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the September 13, 2021 Board of Zoning Adjustment online meeting.

The vote was as follows:

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

Abstain: Member Vozos

BOARD OF ZONING ADJUSTMENT MINUTES
September 27, 2021

PUBLIC HEARING

21-VARIANCE-0108

Request: Variance to allow a principal structure to encroach into the required private yard area
Project Name: Bicknell Avenue Variance
Location: 1501 Bicknell Avenue
Owner/Applicant: Sunshine Builders, LLC
Representative: Damon Garrett
Jurisdiction: Louisville Metro
Council District: 15 – Kevin Triplett
Case Manager: Heather Pollock, Planner I

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

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

Agency testimony:

00:10:33 Heather Pollock presented the case and showed a Powerpoint presentation. Ms. Pollock responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

James Morrow, 1203 Valley Vista Ct., Goshen, KY 40026

Summary of testimony of those in favor:

00:15:57 James Morrow spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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September 27, 2021

PUBLIC HEARING

21-VARIANCE-0108

00:19:40 Board Members' deliberation

00:20:27 On a motion by Member Vozos, seconded by Vice Chair Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare, because the structure must be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the proposed principal structure will not alter the essential character of the general vicinity as it is going to be built with material that will be in character with the existing residence and surrounding residential neighborhood, 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 this lot is an unusual shape and there is additional open space that cannot be included in the calculation. If this area could be counted toward the private yard, then a variance would not be required; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0108 does hereby **APPROVE** Variance from Land Development Code section 5.4.1.D.2 to allow a private yard area to be less than the required 30% of the area of the lot (**Private Yard Area Requirement 2,702 sq. ft., Request 1,532 sq. ft., Variance 1,170 sq. ft.**).

The vote was as follows:

Yes: Members Bond, Leanhart, Vozos, Vice Chair Buttorff, and Chair Howard

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0115

Request: Variance to allow a principal structure to encroach into the side yard setback
Project Name: Baroness Avenue Variance
Location: 705 Baroness Avenue
Owner/Applicant: Greg Erskine
Representative: Greg Erskine
Jurisdiction: Louisville Metro
Council District: 4 – Jecorey Arthur
Case Manager: Heather Pollock, Planner I

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

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

Agency testimony:

00:23:19 Heather Pollock presented the case and showed a Powerpoint presentation. Ms. Pollock responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Gregory Erskine, 705 Baroness Ave., Louisville, KY 40203

Summary of testimony of those in favor:

00:28:55 Gregory Erskine spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0115

00:31:51 **Board Members' deliberation**

00:32:07 On a motion by Member Leanhart, seconded by Member Vozos, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare, because the proposed structure must be constructed to comply with all building codes, including fire codes; however, staff is concerned that the variance could adversely affect the adjacent property owner because construction and maintenance of the structure may require encroachment onto the property. **The applicant has received verbal permission to crossover onto the neighboring property during construction**, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as there are other structures in the area that encroach into the side yard setback and the addition will encroach the same distance as the existing structure, 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 subject property is only 25 ft. in width and the addition will not encroach any further than the existing structure; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0115 does hereby **APPROVE** Variance from Land Development Code Table 5.2.2 to allow a principal structure to encroach into the side yard setback (**Side Yard Requirement 2.5 ft., Request 0 ft., Variance 2.5 ft.**).

The vote was as follows:

Yes: Members Bond, Leanhart, Vozos, Vice Chair Buttorff, and Chair Howard

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0116

Request: Variance to allow a principal structure to encroach into the required side yard setbacks
Project Name: Grand Avenue Variance
Location: 3415 Grand Avenue
Owner: LOPEZ, CUEVAS PROPERTIES OF
Applicant: Vajaira Morphonios
Jurisdiction: Louisville Metro
Council District: 1 – Jessica Green
Case Manager: Zach Schwager, Planner I

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

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

Agency testimony:

00:34:51 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Vajaira Morphonios, 1414 Aaron Creek Drive, Fisherville, KY 40023

Summary of testimony of those in favor:

00:38:50 Vajaira Morphonios spoke in favor of the request and showed a Powerpoint presentation. Ms. Morphonios responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0116

00:45:53 Board Members' deliberation

00:46:06 On a motion by Vice Chair Buttorff, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, the owner's justification statement, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variances will not adversely affect the public health, safety or welfare, because the proposed structure must be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variances will not alter the essential character of the general vicinity as the proposed structure will have similar setbacks as existing structures in the area, and

WHEREAS, the Board further finds that the requested variances 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 variances will not allow an unreasonable circumvention of the zoning regulations as the subject property is only 20 ft. in width, and

WHEREAS, the Board further finds that the owner's justification statements adequately justify this request; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0116 does hereby **APPROVE** Variance from Land Development Code section 5.1.10.F to allow a principal structure to encroach into the required side yard setbacks (**East Side Yard Requirement 2 ft., Request 1 ft., Variance 1 ft.; West Side Yard Requirement 2 ft., Request 1 ft., Variance 1 ft.**).

The vote was as follows:

Yes: Members Bond, Leanhart, Vozos, Vice Chair Buttorff, and Chair Howard

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0117

Request: Variance to allow a fence to exceed maximum height in the street side yard.
Project Name: Copra Lane Variance
Location: 6821 Copra Lane
Owner/Applicant: Bryan Gentry
Representative: Bryan Gentry
Jurisdiction: Louisville Metro
Council District: 2 – Barbara Shanklin
Case Manager: Heather Pollock, Planner I

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

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

Agency testimony:

00:51:40 Heather Pollock presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:
Bryan Gentry, 6821 Copra Lane, Louisville, KY 40219

Summary of testimony of those in favor:

00:55:54 Bryan Gentry spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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

01:05:20 Board Members' deliberation

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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0117

01:12:34 On a motion by Vice Chair Buttorff, seconded by Member Leanhart, the following resolution, based upon the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance may adversely affect the public health, safety or welfare as the fence does obstruct pedestrian vision clearance of vehicles exiting the subject site's driveway, and

WHEREAS, the Board further finds that the requested variance will alter the essential character of the general vicinity, and

WHEREAS, the Board further finds that the requested variance will adversely affect the public health, safety or welfare as the fence does obstruct pedestrian vision clearance of vehicles exiting the subject site's driveway. Additionally, the fence has been constructed very close to the sidewalk and we do not have a survey to determine exactly where the property line is; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-VARIANCE-0117 does hereby **DENY** Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence to exceed 48 inches in height in the street side yard setback.

The vote was as follows:

Yes: Members Bond, Leanhart, Vozos, Vice Chair Buttorff, and Chair Howard

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PUBLIC HEARING

CASE NUMBER 21-CUP-0091

Request:	Conditional Use Permit to allow a private institutional use
Project Name:	St. Raphael Church Addition
Location:	2141 Lancashire Avenue
Owner/Applicant:	Roman Catholic Bishop of Louisville
Jurisdiction:	Louisville Metro
Council District:	8 – Cassie Chambers Armstrong
Case Manager:	Jon E. Crumbie, Planning & Design Coordinator

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

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

01:15:14 Chair Howard stated this case, along with the following two cases, would be heard together. However, action will be taken separately for each case (see recording for detailed presentation).

Agency testimony:

01:16:19 Zach Schwager presented the case on behalf of the Case Manager and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The follow spoke in favor of the request:

Mike Hill, 503 Washburn Ave., Suite 101, Louisville, KY 40222
Steven Berry, 1905 Dillon Drive, Louisville, KY 40205
Gil Stein, Jr., 1932 Roanoke Ave., Louisville, KY 40205

Summary of testimony of those in favor:

01:19:57 Mike Hill spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

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CASE NUMBER 21-CUP-0091

01:31:44 Steven Berry spoke in favor of the request (see recording for detailed presentation).

01:33:17 Gil Stein, Jr. spoke in favor of the request and responded to a question from the Board Member Bond regarding Standard of Review D for the Waiver. Mr. Stein stated it would place additional parking burden on the existing parking spaces that are directly adjacent to Lancashire Avenue. Mr. Stein stated at various times of the day those spaces are at a premium and sometimes overflow into the adjacent property owner's parking spaces which they are trying to avoid. Mr. Stein stated they are maximizing the amount of parking to get as many parking spaces on the site as the site will allow. Mr. Stein stated the other issue is drainage (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

01:37:37 Board Members' deliberation

01:38:10 On a motion by Member Bond, seconded by Member Vozos, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal meets all applicable policies of the Comprehensive Plan, and

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

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

WHEREAS, the Board further finds that:

Private institutional uses, except for such uses specifically regulated elsewhere in this LDC, may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, and U-N zoning districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

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CASE NUMBER 21-CUP-0091

A. Except in the R-R zoning district, all structures, except fencing, and all off-street parking shall be at least 30 feet from any property line adjacent to an existing residential use or residential zoning district. In the R-R zoning district all structures, except fencing, shall be at least 150 feet from any property line and all off-street parking shall be at least 30 feet from any property line. **The proposed off-street parking/maneuvering will be located along the Lancashire Avenue front property line.**

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

C. Off-street parking not located within a driveway shall be located to the side or rear of the building(s). The number of required off-street parking spaces shall be determined by the Planning Director in consultation with the Director of Public Works based on the standards for the closest comparable use and on the particular parking demand and trip generation characteristics of the proposed use. **The proposed of-street parking/maneuvering will be located in front of the existing school. The addition of off-street parking spaces will allow existing employees to be nearer the office and open up additional spaces on the lot for students/visitors to the site.**

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

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

The hours of operation are as follows:

Parish Office: M-F 8:00-4:30

School: M-F 7:00-2:45

Evening Meetings M-F 6:00-7:00

Mass: M-F Noon/Sat. 4:00/Sun 8:30 & 10:30

Confessions: Sat 2:30-3:30

Now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0091 does hereby **APPROVE** Conditional Use Permit to allow a private institutional use, with **RELIEF** from Requirement C based on the testimony from the architect, and **SUBJECT** to the following Conditions of Approval.

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CASE NUMBER 21-CUP-0091

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

The vote was as follows:

Yes: Members Bond, Leanhart, Vozos, Vice Chair Buttorff, and Chair Howard

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

CASE NUMBER 21-VARIANCE-0090

Request:	Variance to allow proposed parking to encroach into the required Lancashire Avenue street side yard
Project Name:	St. Raphael Church Addition
Location:	2141 Lancashire Avenue
Owner/Applicant:	Roman Catholic Bishop of Louisville
Jurisdiction:	Louisville Metro
Council District:	8 – Cassie Chambers Armstrong
Case Manager:	Jon E. Crumbie, Planning & Design Coordinator

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

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

NOTE: This case was heard in conjunction with 21-CUP-0091. Please see pages 12 through 15 of these minutes for testimony.

01:43:25 Mike Hill noted a correction to the Variance and Waiver requests. Mr. Hill stated the request should be 1.4 ft. for each (see recording for detailed presentation).

01:44:31 On a motion by Member Bond, seconded by Vice Chair Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety or welfare as the parking and maneuvering area will be landscaped in a way that will block the view of residential properties across Lancashire Avenue, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as additional screening will be added along Lancashire Avenue, and

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CASE NUMBER 21-VARIANCE-0090

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the flow of traffic will be similar to what exists currently, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the encroachment area will have significant screening to block the view of residential properties across Lancashire Avenue; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-Variance-0090 does hereby **APPROVE** Variance from Land Development Code (LDC) Table 5.3.2 to allow proposed parking/maneuvering to encroach into the required Lancashire Avenue street side yard (**Lancashire Avenue Requirement 10 ft., Request 1.4 ft., Variance 8.6 ft.**).

The vote was as follows:

Yes: Members Bond, Leanhart, Vozos, Vice Chair Buttorff, and Chair Howard

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PUBLIC HEARING

CASE NUMBER 21-WAIVER-0083

Request: Waiver to allow proposed parking to encroach into the required landscape buffer area along the Lancashire Avenue street side yard

Project Name: St. Raphael Church Addition

Location: 2141 Lancashire Avenue

Owner/Applicant: Roman Catholic Bishop of Louisville

Jurisdiction: Louisville Metro

Council District: 8 – Cassie Chambers Armstrong

Case Manager: Jon E. Crumbie, Planning & Design Coordinator

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

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

NOTE: This case was heard in conjunction with 21-CUP-0091. Please see pages 12 through 15 of these minutes for testimony.

01:46:11 On a motion by Member Bond, seconded by Member Vozos, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners, as there will be significant landscape screening that will block the view of the residential properties across Lancashire Avenue, and

WHEREAS, the Board further finds that the waiver will not violate the comprehensive plan, which the vehicular use area landscape buffer area will be eliminated the landscape requirements will be met, and

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CASE NUMBER 21-WAIVER-0083

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant. All other requirements of the Land Development Code will be met except the variance requested, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land. The applicant would have to reconfigure the site to take up less of the required buffer area; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-WAIVER-0083 does hereby **APPROVE** Waiver from Land Development Code Table 10.2.6 to allow the vehicular use area landscape buffer area to be eliminated **(Lancashire Avenue Requirement 15 ft., Request 1.4 ft., Waiver 13.6 ft.)**.

The vote was as follows:

Yes: Members Bond, Leanhart, Vozos, Vice Chair Buttorff, and Chair Howard

01:47:55 Meeting was recessed.

01:48:19 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 21-CUP-0116

Request:	Conditional Use Permit to allow a short term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Howard Street Short Term Rental
Location:	1321 Howard Street
Owner/Applicant:	Jacob Branch
Jurisdiction:	Louisville Metro
Council District:	21 – Nicole George
Case Manager:	Zach Schwager, Planner I

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

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

Agency testimony:

01:48:44 Zach Schwager presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jacob Branch, 751 Floyds Fork Dr., Shepherdsville, KY 40165

Summary of testimony of those in favor:

01:51:16 Jacob Branch spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke neither for nor against the request:

Rachel Roarx, 601 W. Jefferson St., Louisville, KY 40202

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CASE NUMBER 21-CUP-0116

Summary of testimony of those neither for nor against:

01:59:24 Rachel Roarx, Legislative Aid for Council District 21, spoke neither for nor against the request. Ms. Roarx asked if there were currently any rental tenants living on site, specifically in a traditional renter scenario. Mr. Branch said no, just the short term renters. Ms. Roarx asked for clarification that the one bedroom is currently operating as an Airbnb, and the other portion of the house is occupied by Mr. Branch's brother and his girlfriend. Mr. Branch stated that was correct. Ms. Roarx asked who neighbors should call if they had any concerns for the property. Mr. Branch stated they have had no issues so far. However, neighbors are more than welcome to give him a call day or night and he would be sure to get anything resolved asap. Chair Howard asked if Mr. Branch is willing to give the neighbors on either side his and his brother's contact information. Mr. Branch said he definitely would. Mr. Haberman stated that is a requirement of the Ordinance. Ms. Roarx stated she wanted to make sure there is an open line of communication (see recording for detailed presentation).

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

02:05:32 Board Members' deliberation

02:05:57 On a motion by Member Leanhart, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

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

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

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental. **The applicant has been informed of this requirement.**
- B. The dwelling unit shall be limited to a single short term rental contract at a time. **The applicant has been informed of this requirement.**
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **According to the applicant, there is one bedroom; LDC regulations permit up to four guests.**
- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, there are zero properties with an approved conditional use permit for a non-host occupied short term rental within 600 ft. of the subject property.**
- E. The building in which the dwelling unit is located shall be a single-family residence, duplex, or condominium. If the short term rental is a condominium unit, the condominium unit must be the primary residence of the host. All conditional use permit applications for the short term rental of a condominium unit shall include evidence showing the applicable condominium association has taken action to approve the short term rental of the subject condominium. The evidence shall be provided in the form of minutes from an officially called meeting of the applicable condominium association board where in all condominium would be discussed and a majority of the board members voted in favor of permitting/allowing the short term rental of the subject condominium. In addition to notification required by Chapter 11 Part 5A, an applicant for a short term rental within a condominium shall provide notice of the Conditional Use Permit public hearing to all condominium owners

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within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The dwelling unit is a single-family residence.**

- F. Food and alcoholic beverages shall not be served by the host to any guest. **The applicant has been informed of this requirement.**
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts. **The applicant has been informed of this requirement.**
- H. There shall be a sufficient amount of parking available for guests, as determined by the Board of Zoning Adjustment. The amount and location of parking shall be based on the land uses and density of the immediate vicinity. **LDC standards credit the site with two on-street parking spaces and there is additional parking for two cars in the driveway. In addition, there appears to be available parking in the area.**
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances. **The applicant has been informed of this requirement.**
- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief. **The applicant has been informed of this requirement.**
- K. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental pursuant to the Louisville Metro Code of Ordinances. If the short term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void. **The applicant has been informed of this requirement.**
- L. An active registration for the short term rental, as required by the Louisville Metro Code of Ordinances, shall be maintained. No short term rentals may take place

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unless the registration is active and in the name of the current host and property owner. If the registration is not renewed and lapses for six months, or in the event of a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by this Land Development Code. **The applicant has been informed of this requirement**, now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0116 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host (LDC 4.2.63), **SUBJECT** to the following Condition of Approval.

Condition of Approval:

1. The conditional use permit approval for this short term rental shall be allowed up to one bedroom. A modification of the conditional use permit shall be required to allow additional bedrooms.

The vote was as follows:

Yes: Members Bond, Vozos, Leanhart, Vice Chair Buttorff, and Chair Howard

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CASE NUMBER 21-CUP-0125

Request: Conditional Use Permit to permit outdoor dining with alcohol sales in the C-1 zoning district
Project Name: Brownsboro Road Plaza
Location: 10000 Brownsboro Rd
Owner/Applicant: Hogan Holdings 42, LLC
Jurisdiction: Louisville Metro
Council District: 17 – Markus Winkler
Case Manager: Jay Lockett, AICP, Planner I

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

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

Agency testimony:

02:08:18 Jay Lockett presented the case and showed a Powerpoint presentation. Mr. Lockett responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Mike Hill, 503 Washburn Ave., Suite 101, Louisville, KY 40222
Mike Leonard, 9300 Shelbyville Rd., Suite 1300, Louisville, KY 40222

Summary of testimony of those in favor:

02:13:16 Mike Hill spoke in favor of the request and showed a Powerpoint presentation. Mr. Hill responded to questions from the Board Members (see recording for detailed presentation).

02:20:42 Mike Leonard spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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02:22:39 Mike Hill responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

02:25:05 Board Members' deliberation

02:25:32 On a motion by Vice Chair Buttorff, seconded by Member Bond, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal meets all applicable policies of the Comprehensive Plan, and

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

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

WHEREAS, the Board further finds that:

4.2.41 Outdoor Alcohol Sales and Consumption/Indoor Entertainment Activity for a Restaurant in the C- 1 Zoning District Outdoor alcohol sales and consumption and/or indoor live entertainment for a restaurant may be permitted in the C1 zoning district upon the granting of conditional use permit and compliance with the listed requirements

- A. All outdoor areas for the sale and consumption of alcohol must have designated boundaries. **The approved development plan will show the CUP area.**
- B. Outdoor dining areas within the public right-of-way must receive approval from the agency responsible for transportation engineering and shall be designed in accordance with agency standards. **No outdoor dining areas are proposed within the right-of-way.**

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- C. Outdoor dining areas adjacent to the public right-of-way shall contain a physical barrier that is at least three feet in height. The barrier should be designed to permit existing legal access from building to the adjacent public right-of-way. **No outdoor dining areas are adjacent to the right-of-way.**
- D. Outdoor dining areas that include the sale and consumption of alcohol within 50 feet of a residentially zoned or used property shall provide a six foot continuous screen as part of the designated boundary for the areas of the outdoor area within 50 feet of residentially used or zoned property. The continuous screen shall be in conformance with the Chapter 10, Part 4 (Implementation Standards). **No outdoor dining areas are proposed within 50 feet of residentially zoned or used property.**
- E. This conditional use permit shall be limited to restaurant uses in the C-1 that hold the following types of ABC licenses:
1. Restaurant liquor and wine license by the drink for 100 plus seats
 2. Restaurant wine license by the drink for restaurants with seating for 100 and receives at least 70 percent gross receipts from food sales. **The restaurant appears to hold the appropriate license type.**
- F. The use of outdoor dining areas for the sale and consumption of alcohol shall cease by 1 A.M. **The site will comply with this requirement.**
- G. The entertainment activity shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99). **The site will comply with this requirement.**
- H. The Board may require additional and more restrictive requirements than those listed above based on the conditions of the specific location and the characteristics of the specific restaurant; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0125 does hereby **APPROVE** Conditional Use Permit to allow outdoor alcohol sales and consumption, **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.

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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 outdoor alcohol sales and consumption until further review and approval by the Board.

The vote was as follows:

Yes: Members Bond, Leanhart, Vozos, Vice Chair Buttorff, and Chair Howard

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CASE NUMBER 21-CUP-0129

Request:	Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host
Project Name:	Grell short term rental
Location:	5750 Captains Quarters Road
Owner/Applicant:	Jonathan Grell
Jurisdiction:	Louisville Metro
Council District:	16 – Scott Reed
Case Manager:	Jon E. Crumbie, Planning & Design Coordinator

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

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

Agency testimony:

02:27:52 Zach Schwager presented the case on behalf of the Case Manager and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Jason Woodall, 1974A Douglas Blvd., Louisville, KY 40205

Summary of testimony of those in favor:

02:29:41 Jason Woodall spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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02:37:18 Board Members' deliberation

02:38:23 On a motion by Vice Chair Buttorff, seconded by Member Vozos, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

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

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

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental. **The applicant has been informed of this requirement.**
- B. The dwelling unit shall be limited to a single short term rental contract at a time. **The applicant has been informed of this requirement.**
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **The subject property is not larger than two acres. The applicant states that the residence has three bedrooms that will allow a maximum number of eight guests.**

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

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- J. If the property is subject to two (2) or more substantiated civil and/or criminal complaints within a twelve (12) month period, the Planning Director may revoke the approval. When the Planning Director revokes an approval under this section, the owner and host shall be notified of the revocation and shall have thirty (30) days in which to request an appeal before the Board of Zoning Adjustment. If no appeal is requested, the revocation shall become final on the thirty-first (31) day after the initial action by the Director. Civil complaints include, but are not limited to, reported violations of building, safety, property maintenance, nuisance, health and sanitation, fire, electrical, plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief. **The applicant has been informed of this requirement.**
- K. Prior to commencement of any short term rental on the subject property, the host shall register the short term rental pursuant to the Louisville Metro Code of Ordinances. If the short term rental is not registered within thirty (30) days of the issuance of the conditional use permit, the permit shall become null and void. **The applicant has been informed of this requirement.**
- L. An active registration for the short term rental, as required by the Louisville Metro Code of Ordinances, shall be maintained. No short term rentals may take place unless the registration is active and in the name of the current host and property owner. If the registration is not renewed and lapses for six months, or in the event of a change of ownership and/or host, a new registration is not issued within six months from the date of the change, the conditional use permit shall become null and void. In order to recommence short term rentals, a new conditional use permit must be granted if required by this Land Development Code. **The applicant has been informed of this requirement;** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 21-CUP-0129 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host in an R-4 Zoning District and Neighborhood Form District, **SUBJECT** to the following Condition of Approval.

Condition of Approval:

1. The conditional use permit for this short term rental approval shall allow up to three bedrooms. A modification of the conditional use permit shall be required to allow additional bedrooms.

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The vote was as follows:

Yes: Members Bond, Leanhart, Vozos, Vice Chair Buttorff, and Chair Howard

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02:39:52 Prior to adjournment, Joe Haberman reminded the Board Members that we are now short two members and are working on getting those spots filled. Mr. Haberman asked the Board Members to let staff know if they are going to be unavailable for a meeting. Mr. Haberman explained the function of a Hearing Officer. Member Vozos stated he would not be available for the October 4th meeting.

The meeting adjourned at approximately 3:55 p.m.

Chair

Secretary