

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

August 31, 2020

A Special meeting of the Louisville Metro Board of Zoning Adjustment was held on August 31, 2020 at 1:00 p.m. online via Cisco Webex Video Teleconferencing.

Members Present:

Lula Howard, Chair
Richard Buttorff, Secretary
Lindsey Jagoe
Michael Seale
Sharon Bond

Members Absent:

Kimberly Leanhart, Vice Chair

Staff Members Present:

Joe Haberman, Planning & Design Manager
Brian Davis, Planning & Design Manager
Chris French, Planning & Design Supervisor
Jon Crumbie, Planning & Design Coordinator
Zach Schwager, Planner I
Laura Ferguson, Legal Counsel
John Carroll, 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 August 31, 2020 Special Board of Zoning Adjustment meeting was held online.

The following cases were heard:

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August 17, 2020 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

00:06:28 On a motion by Member Buttorff, seconded by Member Bond, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the August 17, 2020 Board of Zoning Adjustment online meeting.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Seale, Bond, and Chair Howard
Absent: Vice Chair Leanhart

BOARD OF ZONING ADJUSTMENT MINUTES
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BUSINESS SESSION

Special Meeting

00:07:36 Joe Haberman, Planning & Design Manager, requested to add an item to the agenda. Mr. Haberman asked that the Board vote on adding a Special Meeting to the calendar for October 26, 2020.

00:08:46 On a motion by Member Seale, seconded by Member Bond, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **ADD** a Special Meeting to the calendar for October 26, 2020.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Seale, Bond, and Chair Howard

Absent: Vice Chair Leanhart

BOARD OF ZONING ADJUSTMENT MINUTES
August 31, 2020

BUSINESS SESSION

CASE NUMBER 16CUP1051

Request: Abandonment of an approved Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host
Project Name: Bryan short term rental
Location: 4538 South 6th Street
Owner/Applicant: Marilyn Bryan and William Gootee
Jurisdiction: Louisville Metro
Council District: 21 – Nicole George
Case Manager: Jon E. Crumbie, Planning & Design Coordinator

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:

00:11:02 Jon Crumbie presented the case (see recording for detailed presentation).

00:12:07 On a motion by Member Jagoe, seconded by Member Seale, the following resolution, based upon the letter from the applicant to the Case Manager, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the applicant states they must sell the property, and requests that the Conditional Use Permit be revoked so it does not move along with the property; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 16CUP1051 does hereby **APPROVE** abandonment of an approved Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Seale, Bond, and Chair Howard
Absent: Vice Chair Leanhart

BOARD OF ZONING ADJUSTMENT MINUTES
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BUSINESS SESSION

CASE NUMBER 20-VARIANCE-0072

Request: Variance to allow an accessory structure to encroach into the side and rear yard setbacks
Project Name: Windsor Place Variance
Location: 1629 Windsor Place
Owner: David & Danatta Devine
Applicant: Charlie Williams – Charlie Williams Design, Inc.
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
Case Manager: Zach Schwager, Planner I

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

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

Agency testimony:

00:14:11 Zach Schwager presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

00:18:07 On a motion by Member Jagoe, seconded by Member Seale, the following resolution, based upon the Standard of Review and Staff Analysis, was adopted:

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

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as, the structure will be similar in size and scale compared to surrounding structures, and

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BUSINESS SESSION

CASE NUMBER 20-VARIANCE-0072

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed addition will be constructed the same distance from the property lines as other structures; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0072 does hereby **APPROVE** Variance from Land Development Code Section 5.4.1.E to allow an addition to an accessory structure to encroach into the required side and rear yard setbacks (**Side Yard Requirement 2 ft., Request 1.81 ft., Variance 0.19 ft.; Rear Yard Requirement 5 ft., Request 1.78 ft., Variance 3.22 ft.**).

The vote was as follows:

Yes: Members Buttorff, Jagoe, Seale, Bond, and Chair Howard

Absent: Vice Chair Leanhart

00:21:31 Joe Haberman, Planning & Design Manager, responded to a question from Member Buttorff regarding clarification on information to include when making motions (see recording for detailed presentation).

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0062

Request: Variance to allow a fence in the front yard setback to exceed 48 inches in height
Project Name: Alpine Way Variance
Location: 5316 Alpine Way
Owner/Applicant: Diane Young
Jurisdiction: Louisville Metro
Council District: 21 – Nicole George
Case Manager: Zach Schwager, Planner I

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

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

Agency testimony:

00:23:41 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:

Diane Young, 5316 Alpine Way, Louisville, KY

Summary of testimony of those in favor:

00:33:50 Diane Young 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.

00:45:53 Board Members' deliberation

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0062

00:49:56 On a motion by Member Seale, 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 requested variance will not adversely affect the public health, safety or welfare as the existing fence is not within the sight triangle and there is adequate vision clearance for motorists and pedestrians, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as there are similar fences within front and street side yard setbacks in the general vicinity, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the fence will not obstruct sight lines or create a hazard for motorists or pedestrians at the intersection, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the fence is slightly over the requirement; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0062 does hereby **APPROVE** Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence in the front and street side yard setbacks in a Neighborhood Form District to exceed 48 inches in height **(Front Yard/Side Yard Requirement 48 inches, Request 50 inches, Variance 2 inches.)**

The vote was as follows:

Yes: Members Buttorff, Jagoe, Seale, Bond, and Chair Howard
Absent: Vice Chair Leanhart

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0063

Request: Variance to allow an addition to an existing structure to encroach into the side yard setback
Project Name: Franklin Street Variance
Location: 930 Franklin Street
Owner/Applicant: Brad Titzer
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith
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:

00:52:23 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:

Brad Titzer, 930 Franklin Street, Louisville, KY

Summary of testimony of those in favor:

00:56:16 Brad Titzer 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.

00:58:39 Board Members' deliberation

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0063

00:59:01 On a motion by Member Buttorff, seconded by Member Seale, 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 deck must be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the proposed deck will not alter the essential character of the general vicinity as it is going to be built on the same footprint as the existing deck. A Certificate of Appropriateness is not required as it is considered general maintenance, and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed deck will be on the same footprint as the existing deck; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0063 does hereby **APPROVE** Variance from Land Development Code Section 5.1.10.F to allow a deck to encroach into the side yard setback (**Side Yard Requirement 2.45 ft., Request 0 ft., Variance 2.45 ft.**).

The vote was as follows:

Yes: Members Buttorff, Jagoe, Seale, Bond, and Chair Howard

Absent: Vice Chair Leanhart

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0068

Request: Variance to allow an addition to an existing structure to encroach into the side yard setback
Project Name: Baxter Avenue Variance
Location: 603 Baxter Avenue
Owner: Fairlamb Homes, LLC
Applicant: Gregg Kelley
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith
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:

01:00:53 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:

Gregg Kelley, 326 Heritage Hill Parkway, Louisville, KY
Molly Fairlamb, 2210 Sherwood Ave., Louisville, KY

Summary of testimony of those in favor:

01:06:25 Gregg Kelley spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:12:02 Molly Fairlamb spoke in favor of the request (see recording for detailed presentation).

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CASE NUMBER 20-VARIANCE-0068

The following spoke neither for nor against the request:

Theresa Armstrong, 824 Nightlight Dr., York, PA

Summary of testimony of those neither for nor against:

01:14:20 Theresa Armstrong signed up to speak as “other”, however, Ms. Armstrong stated she was in opposition because she did not want anyone coming on her property for construction or maintenance. Ms. Armstrong responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

Jessica Stavros, 932 Ardmore Drive, Louisville, KY

Nikki Cummings, 605 Baxter Ave., Louisville, KY

Summary of testimony of those in opposition:

01:18:08 Jessica Stavros spoke in opposition of the request (see recording for detailed presentation).

01:23:00 Nikki Cummings spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:28:49 Jessica Stavros spoke again in opposition (see recording for detailed presentation).

01:31:08 Nikki Cummings and Theresa Armstrong responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

01:35:33 Gregg Kelley and Molly Fairlamb spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

01:45:47 **Board Members’ deliberation**

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CASE NUMBER 20-VARIANCE-0068

01:58:11 On a motion by Member Seale, seconded by Member Jagoe, 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 addition 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 neighboring property. **The Board finds the testimony provided during the Public Hearing addressed this issue**, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the property to the left is 2 ½ stories, and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed addition is the same distance away from the property line as the existing structure and private yard area is maintained; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-VARIANCE-0068 does hereby **APPROVE** Variance from Land Development Code Section 5.1.10.F to allow a principle structure to encroach into the required side yard setback (**Side Yard Requirement 2.49 ft., Request 0.26 ft., Variance 2.23 ft.**).

The vote was as follows:

Yes: Members Buttorff, Jagoe, Seale, Bond, and Chair Howard
Absent: Vice Chair Leanhart

02:00:59 Meeting was recessed.

02:12:05 Meeting was reconvened.

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0069

Request: Variance to allow an addition to an existing structure to encroach into the side yard setback
Project Name: Wiltshire Avenue Variance
Location: 145 Wiltshire Avenue
Owner: DHR Properties, LLC
Applicant: Clay Wallace
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
Case Manager: Zach Schwager, Planner I

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

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

Agency testimony:

02:12:33 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:
Clay Wallace, 145 Wiltshire Ave., Louisville, KY

Summary of testimony of those in favor:

02:20:58 Clay Wallace spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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

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PUBLIC HEARING

CASE NUMBER 20-VARIANCE-0069

02:27:12 Board Members' deliberation

02:27:51 On a motion by Member Buttorff, seconded by Member Seale, the following resolution, based upon 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 addition 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 neighboring property. **The Board finds the testimony provided during Public Hearing addressed this issue**, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as, the structure will be similar in size and scale compared to surrounding structures, and

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

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed addition will be the same distance from the side property lines as the existing footprint. The proposed addition will have overhangs that are the same distance from the property line as the existing overhangs; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-Variance-0069 does hereby **APPROVE** Variance from Land Development Code Table 5.3.1 to allow a principle structure to encroach into the required side yard setback (**Side Yard Requirement 5 ft., Request 0 ft., Variance 5 ft.**).

The vote was as follows:

Yes: Members Buttorff, Jagoe, Seale, Bond, and Chair Howard
Absent: Vice Chair Leanhart

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PUBLIC HEARING

CASE NUMBER 20-CUP-0090

Request:	Conditional Use Permit to allow transitional housing in a single-family zoning district
Project Name:	Smoketown Youth Residence
Location:	532 E. Breckinridge Street
Owner:	Young Adult Development
Applicant:	Kelli Jones – Sabak, Wilson & Lingo, Inc.
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Zach Schwager, Planner I

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

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

Agency testimony:

02:29:54 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Lynn Rippy, 800 S. Preston Street, Louisville, KY
Patti Clare, 800 S. Preston Street, Louisville, KY

Summary of testimony of those in favor:

02:35:44 Lynn Rippy spoke in favor of the request (see recording for detailed presentation).

02:38:13 Patti Clare spoke in favor of the request (see recording for detailed presentation).

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PUBLIC HEARING

CASE NUMBER 20-CUP-0090

02:42:14 Ms. Rippy and Ms. Clare responded to questions from the Board Members (see recording for detailed presentation).

02:43:40 Mr. Schwager stated he had received an email in opposition today and Ms. Clare read it into the record (see recording for detailed presentation).

02:48:05 Ms. Rippy and Ms. Clare spoke in regard to the history of YouthBuild in the neighborhood (see recording for detailed presentation).

02:49:45 Chair Howard advised the applicants that they would have to apply for an Abandonment of the CUP in order for it not to run with the land. Ms. Rippy and Ms. Clare stated that would be their intent (see recording for detailed presentation).

02:51:19 Mr. Schwager and Chair Howard explained the reasons for the applicant needing relief from Standard 4A1 (see recording for detailed presentation).

The following spoke neither for nor against the request:

Valerie Day, 530 East Breckinridge Street, Louisville, KY 40203

Summary of testimony of those neither for nor against:

02:54:19 Valerie Day spoke neither for nor against the request (see recording for detailed presentation).

REBUTTAL:

02:56:29 Lynn Rippy spoke in rebuttal, and thanked Ms. Day for attending the meeting (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

02:57:03 Board Members' deliberation

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PUBLIC HEARING

CASE NUMBER 20-CUP-0090

02:58:45 On a motion by Member Seale, 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 the Comprehensive Plan in that it is a reuse of an existing structure and does not create significant additional burdens on public infrastructure, and

WHEREAS, the Board further finds that the proposal has an addition to the rear of the existing structure that will be the same in height, bulk, and scale, and

WHEREAS, the Board further finds that Public facilities are adequate to serve the site, and

WHEREAS, the Board further finds that:

Transitional Housing may be allowed in any zoning district upon the granting of a conditional use permit and compliance with the listed requirements.

A. Conditional Use Standards – General (all districts)

1. No building shall be closer than 30 feet to a property line unless required to by a form district maximum setback or build-to-line. **The applicant has requested relief from this standard; the Board finds that the area between the CUP and the Single Family property is not required due to the size of the proposed addition.**
2. Parking spaces shall be determined by the board of zoning based on the number of employees and the potential number of visitors to the site as described by the applicant in a parking study of similar uses. **The Board must determine if the parking provided is adequate based upon the applicant's testimony.**
3. Signage for transitional housing shall be in accordance with chapter 8 of the LDC for nonresidential uses. **The applicant is not proposing any signage.**
4. The Board of Zoning Adjustments shall take into account the location of other transitional housing, homeless shelter or rehabilitation home in its analysis of conditional use permit application for transitional housing. **The map showing the location of other transitional housing, homeless shelters, and rehabilitation homes has been attached to the agenda item.**

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5. All applicable Land Development Code requirements including but not limited to floor area ratio, building setback, landscape buffers and building heights shall be maintained. **The applicant is requesting relief from item A.1 for the 30 ft. setback. The landscape buffer area between the CUP area and the single-family zoned property to the west is not required due to the size of the proposed addition. All other LDC requirements are met.**

6. For conversion of existing structures: A report from the applicable fire official shall be provided to the Board outlining the necessary steps for compliance with fire code safety standards prior to establishing occupancy of the structure for the proposed use. **This will be required during the building permit process.**

B. Conditional Use Standards – Single Family Zoning Districts Only:

1. Signs - There shall be allowed one non-illuminated sign identifying the name and use, which sign shall be limited in size to four square feet and be placed on the building. **The applicant is not proposing any signage.**

2. Residential Structure - The structure shall remain or shall be constructed so that the exterior design and ornamentation is residential in character and compatible with the immediate neighborhood, so that there is no evidence from the street that the use is other than residential. **The design will remain residential in character.**

3. Alterations or Improvements to the Structure - Where such a use is permitted in a structure which has been used as a residence, the permittee shall make no substantial alterations or improvements to the structure which would impair the structure's use as a residence at a later time. **The proposed addition will be residential in design and will not prevent the structure from being used as a single-family residence at a later time.**

4. Off-street parking not located within a drive-way shall be located to the side or rear of the building(s). **There is one on-street parking space and two parking spaces at the rear of the building;** now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-CUP-0090 does hereby **APPROVE** Conditional Use Permit for Transitional Housing (LDC 4.2.55), with **RELIEF** from Standard 4A1, and **SUBJECT** to the following Conditions of Approval.

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CASE NUMBER 20-CUP-0090

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 by and approval of 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 as a transitional house without further review by and approval of the Board.
3. Prior to lawful commencement of the transitional housing use the applicant shall obtain all permits and necessary approvals required by the Office of Construction Review and other governmental agencies.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Seale, Bond, and Chair Howard

Absent: Vice Chair Leanhart

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PUBLIC HEARING

CASE NUMBER 20-CUP-0091

Request: Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the host
Project Name: Fogle short term rental
Location: 925 Denmark Street
Owner/Applicant: Mike and Megan Fogle
Jurisdiction: Louisville Metro
Council District: 15 – Kevin Triplett
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:

03:01:21 Jon Crumbie presented the case and showed a Powerpoint presentation. Mr. Crumbie responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:
Mike Fogle, 10004 Hydrangea Way, Louisville, KY

Summary of testimony of those in favor:

03:04:29 Mike Fogle spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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

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PUBLIC HEARING

CASE NUMBER 20-CUP-0091

03:09:09 Board Members' deliberation

03:09:24 On a motion by Member Bond, seconded by Member Seale, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

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

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

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

WHEREAS, the Board further finds that:

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

- A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental. **The applicant has been informed of this requirement.**
- B. The dwelling unit shall be limited to a single short term rental contract at a time. **The applicant has been informed of this requirement.**
- C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus two individuals, except where the licensed property is in excess of two acres in which case the occupancy limit shall be two times the number of bedrooms plus six individuals. **The subject property is smaller than two acres. The applicant states that the residence has two bedrooms that will allow a maximum number of six 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 zero 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 site has credit for on-street parking and there appears to be ample parking along the street. The applicant states that there are two spaces located in a garage at the rear of the site.**
- 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 20-CUP-0091, 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-5 Zoning District and Traditional 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 two 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 Buttorff, Jagoe, Seale, Bond, and Chair Howard
Absent: Vice Chair Leanhart

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CASE NUMBER 20-APPEAL-0002

Request: Appeal of an Administrative Decision
Project Name: South 7th Street Appeal
Location: 1141 South 7th Street
Appellant: SSC1147, LLC
Representative: Joseph C. Pierson
Jurisdiction: Louisville Metro
Council District: 6 – David James
Case Manager: Jon E. Crumbie, Planning and Design Coordinator

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

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

Agency testimony:

03:14:12 Jon Crumbie presented the case and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke in favor of the appeal:

Joseph Pierson, 2309 Mohican Hill Court, Louisville, KY 40207

Summary of testimony of those in favor:

03:18:04 Joseph Pierson spoke in favor of the appeal and responded to questions from the Board Members (see recording for detailed presentation).

03:26:51 Joe Haberman clarified the Notice of Violation (see recording for detailed presentation).

03:29:09 Mr. Pierson explained how the property has been used (see recording for detailed presentation).

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03:30:19 Joe Haberman responded to questions from the Board Members (see recording for detailed presentation).

03:31:40 Jon Crumbie stated there is no deed of consolidation in the file at the present time (see recording for detailed presentation).

03:32:21 Chris French stated this appeal is strictly for whether the Notice of Violation was appropriate or not, not whether they have nonconforming rights (see recording for detailed presentation).

03:34:52 Mr. Pierson spoke in favor of the appeal (see recording for detailed presentation).

The following spoke in opposition of the appeal:

No one spoke.

03:37:45 Board Members' deliberation

03:38:51 On a motion by Member Seale, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 20-APPEAL-0002, does hereby **AFFIRM** the Zoning Notice of Violation that states that the appellant is in violation of Land Development Code Section 2.7.4 and Table 2.7.18 which does not allow off-street parking as a primary use or conditional use permit, and **DENY** the Appeal.

The vote was as follows:

Yes: Members Buttorff, Jagoe, Seale, Bond, and Chair Howard

Absent: Vice Chair Leanhart

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03:40:56 Prior to adjournment, Staff and Board Members discussed variances involving zero property lines.

The meeting adjourned at approximately 5:00 p.m.

DocuSigned by:

Lula Howard

Chair

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DocuSigned by:

Rick Buttorff

Secretary

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