

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

September 23, 2019

A meeting of the Louisville Metro Board of Zoning Adjustment was held on September 23, 2019 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, Kentucky.

Members Present:

Lula Howard, Chair
Kimberly Leanhart, Vice Chair
Richard Buttorff, Secretary
Lester Turner, Jr.
LiAndrea Goatley

Members Absent:

Lindsey Jagoe

Staff Members Present:

Emily Liu, Planning & Design Director
Joe Haberman, Planning & Design Manager
Chris French, Planning & Design Supervisor
Steve Hendrix, Planning & Design Coordinator
Beth Jones, Planner II
Zach Schwager, Planner I
Jon Crumbie, Planning & Design Coordinator
Lacey Gabbard, Planner I
John Carroll, Legal Counsel
Laura Ferguson, Legal Counsel
Sue Reid, Management Assistant

The following cases were heard:

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00:00:08 Chair Howard announced that due to lack of proper neighborhood notification, Case Number 19-CUP-0056 (1830 Date Street), and Case Number 19-CUP-0057 (1833 Date Street) will not be heard today. Both cases have been rescheduled for Monday, October 7, 2019 Board of Zoning Adjustment meeting, and the cases will not be heard before 4:00 p.m. Chair Howard asked if anyone was present today to speak in regard to either of these cases. No one responded.

00:01:13 John Carroll, Legal Counsel, introduced Assistant County Attorney Laura Ferguson.

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APPROVAL OF MINUTES

SEPTEMBER 9, 2019 BOARD OF ZONING ADJUSTMENT SPECIAL MEETING MINUTES

00:06:03 On a motion by Member Turner, seconded by Member Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the Special meeting conducted on September 9, 2019, with corrections submitted by Chair Howard.

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

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APPROVAL OF MINUTES

SEPTEMBER 9, 2019 BOARD OF ZONING ADJUSTMENT REGULAR MEETING MINUTES

00:06:52 On a motion by Member Turner, seconded by Member Buttorff, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of the Regular meeting conducted on September 9, 2019, with corrections submitted by Chair Howard.

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

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BUSINESS SESSION

CASE NUMBER 19-CUP-0030

Request: **RECONSIDERATION REQUEST**
Conditional Use Permit for a short-term rental of a dwelling unit that is not the primary residence of the owner/host

Project Name: Brainard Short Term Rental
Location: 1466 St. James Court
Owner/Applicant: Benjamin Brainard
Jurisdiction: Louisville Metro
Council District: 6 – David James
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:

00:08:03 Jon Crumbie presented the reconsideration request and showed a brief Powerpoint presentation (see recording for detailed presentation).

00:09:26 Board Members' deliberation

00:09:44 The Board of Zoning Adjustment, by general consensus, in Case Number 19-CUP-0030 agreed to **DENY** the Reconsideration Request. Therefore, no vote or action was taken.

00:10:08 Chair Howard announced that Item #6 and Item #7 on today's agenda are being continued to 10/21/19, and asked if anyone was present to speak in regard to these two cases. One person responded from the audience, but stated he would try to come back on 10/21/19 (see recording for detailed presentation).

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PUBLIC HEARING

CASE NUMBER 19CUP1018

Request: Reconsideration of a Conditional use permit to allow a short term rental of a dwelling unit that is not the primary residence of the host
Project Name: Franklin Street Short Term Rental
Location: 813 Franklin Street
Owner/Applicant: Colin Clark – Double C Realty, LLC
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:

00:12:04 Zach Schwager presented the case and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke in favor of the request:

Jon Baker, 500 W. Jefferson St., Suite 2800, Louisville, KY 40202
Colin Clark, 813 Franklin Street, Louisville, KY 40206

Summary of testimony of those in favor:

00:14:34 Jon Baker spoke in favor of the request and showed a Powerpoint presentation. Mr. Baker responded to questions from the Board Members (see recording for detailed presentation).

00:28:45 Colin Clark stated he was available to answer questions. Mr. Clark provided a brief history of the property (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

00:32:01 Board Members' deliberation

00:36:29 On a motion by Vice Chair Leanhart, seconded by Member 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 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:

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.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- 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

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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 are two bedrooms; LDC regulations permit up to six 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 three properties with an approved conditional use permit for short term rental of a dwelling unit not the primary residence of the host within 600 ft of the subject property (see Attachment 3). The applicant justification for relief of this requirement is attached to the agenda item.**
- 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 dwelling unit is a single-family residence.**
- F. Food and alcoholic beverages shall not be served by the host to any guest.
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- 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

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vicinity. **LDC standards credit the site with one on-street parking space along the property frontage. There is additional parking for three vehicles on a graveled parking area off a rear alley.**

- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- 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.
- 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.
- 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; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1018 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit not the primary residence of the host (LDC 4.2.63), with **RELIEF** from Standard 4D because it has no negative impact to the area, and would not adversely affect the neighborhood.

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The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

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CASE NUMBER 19CUP1028

Request: Reconsideration of a Conditional Use Permit for a short-term rental of a dwelling unit that is not the primary residence of the owner/ host

Project Name: Thomas Short Term Rental

Location: 934 East Oak Street

Owner: Uncle Karl Dyson, LLC

Applicant: David Orange

Jurisdiction: Louisville Metro

Council District: 4 – Barbara Sexton Smith

Case Manager: Jon E. Crumbie, Planning and 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:

00:38:30 Jon Crumbie presented the case and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke in favor of the request:

Paul Whitty, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223

David Orange, 1427 Texas Ave., Louisville, KY 40217

Summary of testimony of those in favor:

00:40:36 Paul Whitty spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

00:52:07 David Orange spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

00:57:11 Paul Whitty 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:

Helga Ulrich, 112 E. Ormsby Ave., Louisville, KY 40203

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Summary of testimony of those in opposition:

00:58:33 Helga Ulrich spoke in opposition of the request (see recording for detailed presentation).

REBUTTAL:

01:05:30 David Orange spoke in rebuttal (see recording for detailed presentation).

01:09:56 Board Members' deliberation

01:17:59 Public Hearing was reopened to allow additional testimony from Mr. Whitty (see recording for detailed presentation).

01:19:42 David Orange spoke in regard to the Conditions of Approval (see recording for detailed presentation).

01:25:58 Board Members' deliberation

01:26:17 On a motion by Vice Chair Leanhart, seconded by Member 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 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:

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Short Term Rental Term Rental of a dwelling unit that is not 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.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- 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 three bedrooms that will allow a maximum number of eight guests.**
- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, within 600' of the subject property, there is 1 property with an approved conditional use permit allowing short term rentals that is not the primary residence of the host. The applicant is requesting relief to the provision in accordance with LDC Section 4.2.2.B. If provided, the applicant's justification for this relief is attached to this report. If the Board does not grant relief, the application does not meet all of the listed requirements and the conditional use permit cannot be approved.**
- 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

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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.

- F. Food and alcoholic beverages shall not be served by the host to any guest.
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- 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 one on-street parking space and two spaces are located 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.
- 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.
- 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

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of the issuance of the conditional use permit, the permit shall become null and void.

- 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; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19CUP1028 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the owner/host in an R-6 Zoning District and Traditional Neighborhood Form District, with **RELIEF** from Standard 4D because there is no adverse or negative impact to the neighborhood or adjoining properties, there is no opposition from anyone who lives in the neighborhood, and there is a petition from property owners who are in support, and **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. The maximum number of guests permitted in the short term rental shall be limited to six (6).
2. Prior to commencement of any short term rental, the parking in the rear of the property shall be brought into full compliance with the Land Development Code and the Louisville Metro Code of Ordinances.
3. The properties at 932 E. Oak Street and 934 E. Oak Street shall not be rented by the same guests at the same time.

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

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PUBLIC HEARING

CASE NUMBER 19-CUP-0052

Request: **THIS CASE IS BEING CONTINUED TO 10/21/19**
Conditional Use Permit for a short-term rental of a dwelling unit that is not the primary residence of the owner/host

Project Name: Higgins Short Term Rental
Location: 1036 Lampton Street
Owner/Applicant: Shannon Higgins, LLC
Jurisdiction: Louisville Metro
Council District: 4 – Barbara Sexton Smith
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.

01:29:28 On a motion by Member Buttorff, seconded by Vice Chair Leanhart, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 19-CUP-0052 to the October 21, 2019 Board of Zoning Adjustment meeting.

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

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PUBLIC HEARING

CASE NUMBER 19-CUP-0060

Request: **THIS CASE IS BEING CONTINUED TO 10/21/19**
Conditional use permit to allow a short term rental of a dwelling unit that is not the primary residence of the host

Project Name: Cannonside Drive Short Term Rental
Location: 804 Cannonside Drive
Owner: Anthony Clemons
Applicant: Michael Eisenberg – Furnished Habitat LLC
Jurisdiction: Louisville Metro
Council District: 9 – Bill Hollander
Case Manager: Zach Schwager, Planner I

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

01:29:58 On a motion by Member Buttorff, seconded by Vice Chair Leanhart, the following resolution was adopted:

RESOLVED, the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** Case Number 19-CUP-0060 to the October 21, 2019 Board of Zoning Adjustment meeting.

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

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PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0026

Request: Variance to allow a principal structure to encroach into the required side yard setbacks.
Project Name: Klemenz Caldwell Variance
Location: 1023 E. Caldwell St.
Owner: David Klemenz, C & D Construction, LLC
Applicant: David Klemenz, C & D Construction, LLC
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:

01:30:25 Zach Schwager presented the case and showed a Powerpoint presentation. Mr. Schwager responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

David Klemenz, 11000 Fairway Pointe Drive, Louisville, KY 40241

Summary of testimony of those in favor:

01:32:56 David Klemenz 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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CASE NUMBER 19-VARIANCE-0026

01:34:08 Board Members' deliberation

01:34:35 On a motion by Vice Chair Leanhart, seconded by Member Turner, 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 structure will 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 addition will align with the existing side yard setbacks of the principal structure, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as it is an existing structure and the addition will be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the addition will be setback the same distance from both side property lines as the existing structure; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-VARIANCE-0026 does hereby **APPROVE** Variance from Land Development Code Table 5.2.2 to allow a principal structure to encroach into the required side yard setbacks (**East Side Yard Requirement 3 ft., Request 2.02 ft., Variance 0.98 ft.,; West Side Yard Requirement 3 ft., Request 0.40 ft., Variance 2.60 ft.**).

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

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CASE NUMBER 19VARIANCE1050

Request: Variance to allow a proposed warehouse to encroach into a protected waterway buffer
Project Name: Meineke
Location: 4170 Bardstown Rd
Owner: Bryan Brown, Bycar Investments LLC
Representative: Bryan Brown, Bycar Investments LLC
Jurisdiction: Louisville Metro
Council District: 2 – Barbara Shanklin
Case Manager: Lacey Gabbard, 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:

01:36:28 Lacey Gabbard presented the case and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N. Hurstbourne Pkwy., Louisville, KY 40223

Summary of testimony of those in favor:

01:38:47 Nick Pregliasco spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

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CASE NUMBER 19VARIANCE1050

01:45:38 Board Members' deliberation

01:46:08 On a motion by Member Turner, seconded by Member Goatley, 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 since the existing buildings on the subject site (an auto repair and offices) are completely built within the 100 foot buffer, and other buildings in the vicinity of the subject site appear to encroach into the buffer as well. The proposed warehouse building does not completely encroach into the 100 foot buffer, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the two existing structures on the subject site are built within the 100 foot buffer, and other buildings in the vicinity of the subject site appear to encroach into the buffer as well, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the applicant proposes to address any potential impacts caused by the encroachment of the proposed warehouse building into the protected waterway buffer, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the 100 foot buffer covers a majority of the site, and when the location of existing buildings and the parking lot is considered, the buildable area of the site becomes limited; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19VARIANCE1050 does hereby **APPROVE** Variance from Land Development Code Section 4.8 and Table 4.8.1 to allow the proposed warehouse building to be located within the 100 foot protected waterway buffer.

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CASE NUMBER 19VARIANCE1050

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

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PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0021

Request:	Variance to allow a fence in the street side yard to exceed 48 inches in height
Project Name:	Six Mile Lane Variance
Location:	5917 Six Mile Lane
Owner:	The Majka Living Trust
Applicant:	Bob Taylor
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvihill
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:

01:47:56 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:

Robert Taylor, 10800 Blacksmith Road, Louisville, KY 40291

Summary of testimony of those in favor:

01:49:56 Robert Taylor spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

01:54:19 Board Members' deliberation

BOARD OF ZONING ADJUSTMENT MINUTES
September 23, 2019

PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0021

01:55:44 On a motion by Member Turner, seconded by Member Goatley 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 fences over 48 inches in height in front and street side yards in the area, 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 needed to provide privacy in the rear yard of a corner lot. The applicant has stated that the fence is on their property adjacent to the property line and staff does not have any information that contradicts that assertion; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-VARIANCE-0021 does hereby **APPROVE** Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence in the street side yard in a Neighborhood Form District to exceed 48 inches in height (**Requirement 48 inches, Request 72 inches, Variance 24 inches**).

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

BOARD OF ZONING ADJUSTMENT MINUTES
September 23, 2019

PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0023

Request: Variance to allow a parking area to encroach into the required side yard setback adjacent to a residential zoning district and waivers to allow pavement and proposed detention basin to encroach into the required Landscape Buffer Area and an Interior Landscape Area to overlap the Landscape Buffer Area

Project Name: New Cut Road Variance and Waivers
Location: 5868 New Cut Road
Owner: ACT Development Inc.
Applicant: Derek Triplett – Land Design & Development, Inc.
Jurisdiction: Louisville Metro
Council District: 13 – Mark Fox
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:

01:58:02 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:

Derek Triplett, 503 Washburn Ave., Louisville, KY 40222

Summary of testimony of those in favor:

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0023

02:01:06 Derek Triplett spoke in favor of the request and showed a Powerpoint presentation. Mr. Triplett responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in opposition of the request:

Betty Curran, 6604 Holly Lake Drive, Louisville, KY 40291

Summary of testimony of those in opposition:

02:10:11 Betty Curran spoke in opposition of the request. Ms. Curran stated she is concerned about the detention basin being located right against her property. Ms. Curran stated she was concerned about parking (see recording for detailed presentation).

02:19:13 Zach Schwager provided a copy of the site plan to the Board Members in response to Ms. Curran's statement that the applicant is proposing to move the access point to her property (see recording for detailed presentation).

02:20:42 Ms. Curran continued her testimony in opposition and responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

02:27:08 Mr. Triplett spoke in rebuttal and responded to questions from the Board Members (see recording for detailed presentation).

02:35:10 Board Members' deliberation

02:37:20 On a motion by Vice Chair Leanhart, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Variance from Land Development Code Section 5.3.3.C.2.b to allow a parking area to encroach into the required side yard setback adjacent to a residential zoning district:

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PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0023

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 adjoining property to the north is undeveloped and the subject property is only 120 ft. wide, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as there are other commercial parking areas that encroach into residential setbacks, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the parking is consistent with other parking in the area. The plan has also received preliminary approval from Transportation Planning and KYTC, 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 120 ft. wide and the required setback is 50 ft.; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-VARIANCE-0023 does hereby **APPROVE** Variance from Land Development Code Section 5.3.3.C.2.b to allow a parking area to encroach into the required side yard setback adjacent to a residential zoning district (**Requirement 50 ft., Request 5 ft., Variance 45 ft.**), **SUBJECT** to the following Condition of Approval:

Condition of Approval:

1. The applicant shall provide a boundary survey to Planning and Design staff prior to the issuance of building permits in order to show the legal boundaries of the lot. If the survey shows a different location of the property line from the plan provided in this staff report, the applicant shall either revise the development plan or seek a modification of the variance.

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

BOARD OF ZONING ADJUSTMENT MINUTES
September 23, 2019

PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0023

02:40:34 On a motion by Vice Chair Leanhart, seconded by Member Buttorff, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Waiver from Land Development Code Section 10.2.4 to allow pavement and proposed detention basin to encroach into the required Landscape Buffer Area (LBA):

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the waiver will not adversely affect adjacent property owners as the parking area is adjacent to a residentially zoned property, however, this property is undeveloped and contains a significant amount of tree canopy in between the closest residentially used property, and

WHEREAS, the Board further finds that the waiver does violate specific guidelines of Plan 2040 as Plan 2040 states that Regional Centers will place emphasis on (a) encouraging infill development, (b) compact development to provide accessibility through all means of transportation, and (c) site design to provide screening of the parking lot as the site is viewed from the arterial roadway. The proposed site plan meets these guidelines as it is compact in design, provides accessibility through all means of transportation, and meets the parkway buffer requirements for New Cut Road. Also, the proposed detention basin in the LBA will help to mitigate runoff, and

WHEREAS, the Board further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the adjacent property to the north currently provides a significant buffer to the residentially used property further to the north, and

WHEREAS, the Board further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the property is 120 ft. wide and the required LBA is 25 ft.; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-VARIANCE-0023 (19-WAIVER-0029) does hereby **APPROVE** Waiver from Land Development Code Section 10.2.4 to allow pavement and proposed detention basin to encroach into the required Landscape Buffer Area (LBA).

**BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0023

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

02:42:33 Meeting was recessed.

02:42:53 Meeting was reconvened.

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0027

Request:	Variance to allow a principal structure to encroach into the required side yard setbacks.
Project Name:	1015 E. Caldwell Variance
Location:	1015 E. Caldwell Street
Owner:	James Ryan Brown
Applicant:	James Ryan Brown
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:

02:43:21 Zach Schwager presented the case and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke in favor of the request:

James Brown, 5505 Wilke Farm Ave., Louisville, KY 40216

Summary of testimony of those in favor:

02:45:28 James Brown 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 19-VARIANCE-0027

02:47:00 **Board Members' deliberation**

02:47:25 On a motion by Vice Chair Leanhart, seconded by Member Turner, 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 structure will 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 proposed structure will align with the existing street wall and keep in character with other structures 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 it is an existing structure and the addition will be constructed to comply with all building codes, including fire codes, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the structure will help to keep the existing street wall and built on the same footprint; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-VARIANCE-0027 does hereby **APPROVE** Variance from Land Development Code Table 5.2.2 to allow a principal structure to encroach into the required side yard setbacks (**East Side Yard Requirement 3 ft., Request 2.29 ft., Variance .71 ft.; West Side Yard Requirement 3 ft., Request .67 ft., Variance 2.33 ft.**).

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0007

Request:	Variance to allow a fence in the street side yard to exceed 48 inches in height
Project Name:	Arroyo Trail Variance
Location:	4710 Arroyo Trail
Owner:	Terry L. Henderson
Applicant:	Terry L. Henderson
Jurisdiction:	Louisville Metro
Council District:	13 – Mark Fox
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:

02:49:25 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:

No one spoke.

The following spoke in opposition of the request:

No one spoke.

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PUBLIC HEARING

CASE NUMBER 19-VARIANCE-0007

02:56:10 On a motion by Vice Chair Leanhart, seconded by Member Goatley, the following resolution, based upon the Standard of Review and Staff Analysis, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that there is not enough evidence to determine if the requested variance will allow an unreasonable circumvention of the zoning regulations as it appears the fence may be in the public right-of-way; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-VARIANCE-0007 does hereby **DENY** Variance from Land Development Code Section 4.4.3.A.1.a.i to allow a fence in the street side yard in a Neighborhood Form District to exceed 48 inches in height.

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, and Vice Chair Leanhart

Abstain: Chair Howard

Absent: Member Jagoe

BOARD OF ZONING ADJUSTMENT MINUTES
September 23, 2019

PUBLIC HEARING

CASE NUMBER 19-NONCONFORM-0007

Request: Change in nonconforming use from doctor's office to Office, Professional and Business.
Project Name: Preston Hwy. Change in Nonconformance
Location: 3803 Preston Hwy.
Owner: Steven Smith
Applicant: Steven Smith
Jurisdiction: Louisville Metro
Council District: 10 – Patrick Mulvihill
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:

02:58:40 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:

Steve Smith, 11816 Duane Point Circle, Louisville, KY 40243

Summary of testimony of those in favor:

03:01:43 Steve Smith 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.

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

CASE NUMBER 19-NONCONFORM-0007

03:03:15 **Board Members' deliberation**

03:04:04 On a motion by Member Buttorff, seconded by Vice Chair Leanhart, the following resolution, based upon the Standard of Review and Staff Analysis, and the presentation, was adopted:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the change in nonconformance is the same or more restrictive classification than the current nonconforming use, and

WHEREAS, the Board further finds that the change in nonconformance will be no more odious or offensive to surrounding properties than the current nonconforming use; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-NONCONFORM-0007 does hereby **APPROVE** Change in nonconforming use from Doctor's Office to Office, Professional and Business.

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

CASE NUMBER 19-CUP-0029

Request:	Conditional Use Permit for a short term rental of a single family dwelling that is not the primary residence of the host
Project Name:	Short Term Rental
Location:	1028 S 5th Street
Owner/Applicant:	Greg and Cassi Luka
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Lacey Gabbard, 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:

03:06:31 Lacey Gabbard presented the case and showed a Powerpoint presentation. Ms. Gabbard responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Greg Luka, 807 NW A Street, Bentonville, AR 72712
Jonathan Klunk, 1372 S. 6th Street, Louisville, KY 40208

Summary of testimony of those in favor:

03:10:30 Greg Luka spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

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PUBLIC HEARING

CASE NUMBER 19-CUP-0029

03:14:40 Jonathan Klunk spoke in favor of the request. Mr. Klunk provided information to the Board Members regarding what he considers to be commercial use in the neighborhood (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

03:21:13 Board Members' deliberation

03:26:05 On a motion by Member Turner, seconded by Vice Chair Leanhart, 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 Term Rental of a dwelling unit that is not 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.

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- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- 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 applicant states that the residence has two (2) bedrooms that will allow a maximum number of six (6) guests.**
- D. The property on which the short term rental(s) is situated shall not be located closer than 600 feet (measured in a straight line from nearest property line to the nearest property line) to any property on which another approved short term rental that required a conditional use permit is situated. The provision shall not apply to a property in the TNZD district which required a conditional use permit even though it is the primary residence of the host. **As of the date of this report, within 600' of the subject property, there are seven (7) properties with an approved conditional use permit allowing short term rentals that are not the primary residence of the host. The applicant is requesting relief to the provision in accordance with LDC Section 4.2.2.B. If provided, the applicant's justification for this relief is attached to this report. If the Board does not grant relief, the application does not meet all of the listed requirements and the conditional use permit cannot be approved.**
- 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 structure is a single family dwelling.**

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- F. Food and alcoholic beverages shall not be served by the host to any guest.
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- 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 two (2) on-street parking spaces.**
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- 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.
- 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.
- 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; now, therefore be it

**BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

CASE NUMBER 19-CUP-0029

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0029 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit that is not the primary residence of the owner/host in the TNZD and Traditional Neighborhood Form District, with **RELIEF** from Standard 4D, because this is a mixed-use neighborhood with some commercial uses in the area.

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, and Vice Chair Leanhart

No: Chair Howard

Absent: Member Jagoe

BOARD OF ZONING ADJUSTMENT MINUTES
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PUBLIC HEARING

CASE NUMBER 19-CUP-0064

Request:	Conditional Use Permit for short-term rental of a dwelling unit located in the TNZD
Project Name:	S. Floyd Short Term Rental
Location:	1144 S. Floyd
Owner/Applicant/Host:	Julia Pave
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Beth Jones, AICP, Planner II

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and 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:

03:29:17 Beth Jones presented the case and showed a Powerpoint presentation (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Greg Tanacea, 1144 S. Floyd St., Louisville, KY 40203
Julie Pave-Tanacea, 1144 S. Floyd St., Louisville, KY 40203
Brittany Deppun, 1140 S. Floyd St., Louisville, KY 40203

Summary of testimony of those in favor:

03:34:38 Greg Tanacea spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

03:41:55 Julie Pave-Tanacea spoke in favor of the request (see recording for detailed presentation).

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PUBLIC HEARING

CASE NUMBER 19-CUP-0064

03:45:14 Brittany Deppun spoke in favor of the request (see recording for detailed presentation).

03:46:51 Paul Bell was called, but was not present to speak (see recording for detailed presentation).

The following spoke in opposition of the request:

Louise Venettozzi, 1142 S. Floyd St., Louisville, KY 40203

Summary of testimony of those in opposition:

03:48:38 Louise Venettozzi spoke in opposition of the request and responded to questions from the Board Members (see recording for detailed presentation).

REBUTTAL:

03:53:59 Greg Tanacea spoke in rebuttal (see recording for detailed presentation).

04:00:13 Board Members' deliberation

04:03:22 On a motion by Member Turner, seconded by Member Goatley, 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 proposed use 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 appear to be required, and

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CASE NUMBER 19-CUP-0064

WHEREAS, the Board further finds that the subject property is served by existing public utilities and facilities. The proposed use does not appear to 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.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- 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 are three bedrooms; the LDC permits up to eight 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 requires a conditional use permit even though it is the primary residence of the host. **As of the date of this report, there are two properties with an approved conditional use permit for short term rental of a dwelling unit not the primary residence of the host within 600 ft of the subject property (see Attachment 3). The applicant has submitted a justification statement which is attached to the agenda item.**

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CASE NUMBER 19-CUP-0064

- 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 existing structure is a single-family residence.**
- F. Food and alcoholic beverages shall not be served by the host to any guest.
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- 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 property frontage with one on-street space; a parking pad off the rear alley can accommodate up to three additional vehicles.**
- I. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
- 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,

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plumbing, and mechanical codes. Criminal complaints include, but are not limited to, reported drug activity, theft and criminal mischief.

- 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.
- 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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0064 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit located within the TNZD (LDC 4.2.63), with **RELIEF** from Standard 4D because the expressway is located in front of the property and there will be no adverse impact on the neighborhood, and **SUBJECT** to the following Condition of Approval:

Condition of Approval:

1. The applicant must improve the existing gravel parking area, using a method that creates a hard and durable surface which meets LDC requirements. If gravel is used, it must be installed using a construction method sufficient to prevent the gravel from migrating onto the adjoining alley surface. The applicant must obtain approval of the completed work from Planning & Design staff before use of the property for short-term rentals.

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The vote was as follows:

Yes: Members Turner, Goatley, Vice Chair Leanhart, and Chair Howard

No: Member Buttorff

Absent: Member Jagoe

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CASE NUMBER 19-CUP-0058

Request:	Conditional Use Permit for short-term rental of a dwelling unit not the primary residence of the host
Project Name:	Glenmary Short Term Rental
Location:	2409 Glenmary Avenue, Unit 1
Owner/Applicant:	Michael Storm
Host:	Luann Davis
Jurisdiction:	Louisville Metro
Council District:	8 – Brandon Coan
Case Manager:	Beth Jones, AICP, Planner II

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

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

Agency testimony:

04:07:25 Beth Jones presented the case and showed a Powerpoint presentation. Ms. Jones responded to questions from the Board Members (see staff report and recording for detailed presentation).

The following spoke in favor of the request:

Michael Storm, 2713 Victor Place, Louisville, KY 40206

Summary of testimony of those in favor:

04:11:23 Michael Storm 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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04:13:53 Board Members' deliberation

04:14:10 On a motion by Member Goatley, seconded by Member Buttorff, 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 proposed use 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 appear to be required, and

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

WHEREAS, the Board further finds that:

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.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.
- 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 applicant is**

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requesting short-term rental for the two-bedroom first floor unit only; LDC regulations permit up to six 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 no properties with an approved conditional use permit for short term rental of a dwelling unit not the primary residence of the host within 600 ft of the subject property (see Attachment 3).**

- 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 dwelling unit is a duplex residence. The applicant is requesting short-term rental for the two-bedroom ground floor unit only.**

- F. Food and alcoholic beverages shall not be served by the host to any guest.

- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.

- 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 one on-street parking space. The driveway can accommodate up to six vehicles.**

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0058 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a dwelling unit not the primary residence of the host (LDC 4.2.63), **SUBJECT** to the following Condition of Approval:

Condition of Approval:

- 1. The subject CUP for short-term rentals shall apply only to the dwelling unit located on the first floor at 2409 Glenmary Avenue. A modification of the CUP

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shall be required before short-term rentals can be operated in the second floor unit, whether instead of or in addition to the first floor unit.

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

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CASE NUMBER 19-CUP-0059

Request:	Conditional Use Permit for a short term rental of a single family dwelling that is not the primary residence of the host
Project Name:	Short Term Rental
Location:	122 West Garrett Street
Owner/Applicant:	Jonathan B. Cayot
Jurisdiction:	Louisville Metro
Council District:	15 –Kevin Triplett
Case Manager:	Steve Hendrix, 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:

04:16:18 Steve Hendrix presented the case and showed a Powerpoint presentation. Mr. Hendrix responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Jonathan Cayot, 4000 S. Brook Street, Louisville, KY 40214
Jonathan Klunk, 1372 S. 6th Street, Louisville, KY 40208

Summary of testimony of those in favor:

04:19:51 Jonathan Cayot spoke in favor of the request and responded to questions from the Board Members (see recording for detailed presentation).

04:23:00 Jonathan Klunk spoke in favor of the request (see recording for detailed presentation).

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The following spoke in opposition of the request:

No one spoke.

04:24:16 Board Members' deliberation

04:30:43 On a motion by Vice Chair Leanhart, seconded by Member Goatley, 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. No exterior construction or alterations to the building or the site will be required, and

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

WHEREAS, the Board further finds that:

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.
- B. The dwelling unit shall be limited to a single short term rental contract at a time.

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- 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 dwelling has three bedrooms which will allow for eight 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 aren't any properties with an approved Conditional Use Permit allowing short term rental that is not the primary residence of the host within 600' 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 within the association. Proof of notification shall be by way of affidavit. This provision shall not be waived or adjusted. **The structure is a single family dwelling.**
- F. Food and alcoholic beverages shall not be served by the host to any guest.
- G. Outdoor signage which identifies the short term rental is prohibited in residential zoning districts.
- 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.

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The site has one parking credit along Garrett Street and one parking space in a carport off the alley.

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

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 19-CUP-0059 does hereby **APPROVE** Conditional Use Permit to allow short term rental of a single family dwelling 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:

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Condition of Approval:

1. Prior to the commencement of short term rentals, the property shall be inspected by Develop Louisville Staff to determine whether or not the bedrooms in the basement meet all necessary occupancy requirements. If not, the basement cannot be used for sleeping purposes.

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart , and Chair Howard

Absent: Member Jagoe

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CASE NUMBER 18CUP1120

Request:	Conditional Use Permit for a private institutional use
Project Name:	Chabad of Prospect
Location:	6900 Transylvania Avenue
Owner:	Chabad of Prospect, Inc.
Representative:	Boruch Susman
Jurisdiction:	Louisville Metro
Council District:	16 – Scott Reed
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:

04:33:20 Jon Crumbie spoke in favor of the request and showed a Powerpoint presentation (see recording for detailed presentation).

The following spoke in favor of the request:

Michael Gosnell, 471 W. Main Street, Suite 400, Louisville, KY 40202
Boruch Susman, 6900 Transylvania Avenue, Prospect, KY 40059
Daniel Grossberg, 1100 Winners Circle, #4, Louisville, KY 40242

Summary of testimony of those in favor:

04:36:02 Michael Gosnell spoke in favor of the request. Mr. Gosnell provided a brief history of the property. Mr. Gosnell stated the main concern seems to him to be the impact of traffic. Mr. Gosnell stated they believe there is a minimal impact on traffic on Transylvania Avenue as a result of the activities of Chabad of Prospect. Mr. Gosnell reviewed the operational hours of the religious

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institution, as well as other activities that are handled at this property (see recording for detailed presentation).

04:45:04 Boruch Susman spoke in favor of the request. Mr. Susman explained the process of obtaining the property as well as providing information as to what they do. Mr. Susman stated their average services are usually under thirty people. Mr. Susman stated they do a lot of outreach programs. Mr. Susman stated as far as the noise complaints, they have a highway right about them that has semi-trucks coming at all hours of the day; Mr. Susman stated he would find it very hard to believe that the noise a few people could make is louder than the semi-trucks, and they are on a five and a half acre piece of land set back over two hundred feet from the street. Mr. Susman stated due to the fact they are under Historic Preservation it would be near impossible for them to get approval to build an addition or to expand on the property. Mr. Susman responded to questions from the Board Members (see recording for detailed presentation).

04:53:22 Chayo Susman was called, but declined to speak (see recording for detailed presentation).

04:53:44 Daniel Grossberg spoke in favor of the request. Mr. Grossberg stated he wanted to clarify what really makes Chabad different than any other traditional synagogue you might be familiar with. Mr. Grossberg stated he also wanted to clarify the amount of attendance. Mr. Grossberg responded to questions from the Board Members (see recording for detailed presentation).

The following spoke neither for nor against the request:

Robert Newman, 550 S. 3rd Street, Louisville, KY 40202

Summary of testimony of those neither for nor against:

05:00:24 Robert Newman spoke neither for nor against the request. Mr. Newman stated he works for the Louisville Water Company. Mr. Newman stated while he is a neutral party, if the property is not going to be used as a residence, they would appreciate a septic system that is more robust than a residential septic system. Mr. Newman stated MSD has reviewed and approved the proposal, but MSD does not inspect septic tanks. Mr. Newman responded to questions from the Board Members (see recording for detailed presentation).

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The following were present in opposition of the request:

Jon Baker, 500 W. Jefferson St., Suite 2800, Louisville, KY 40202
Jerry Durrett, 7004 River Road, Louisville, KY 40059
Elain Wells, 6814 Transylvania Ave., Prospect, KY 40059
Patricia Durrett, 7004 river Road, Prospect, KY 40059 (did not speak)
Sandra Beckhart Isaac, 7100 River Road, Prospect, KY 40059 (did not speak)
Wayne Wells, 245 Chenoweth Ln., Louisville, KY 40207 (did not speak)
Bill Kitchen, 6802 Transylvania Ave., Prospect, KY 40059
Edith Wells, 404 Wynfield Close Ct., Louisville, KY 40206 (did not speak)
Stefanie Knopf, 4702 Beechspring Farm Blvd., Louisville, KY 40241 (did not speak)
Rebecca Glauber, 297 N. Hubbards Ln., Suite 202, Louisville, KY 40207 (did not speak)
Nancy Kitchen, 6802 Transylvania Ave., Prospect, KY 40059 (did not speak)
Barbara Smith, 5911 Mason Blvd., Prospect, KY 40059 (did not speak)
Mike Sowell, 6800 Transylvania Ave., Prospect, KY 40059 (did not speak)
John Ross, 5910 Mason Blvd., Prospect, KY 40059
Jonathan Spalding, 5915 Mason Blvd., Prospect, KY 40059 (did not speak)
Elizabeth Spalding, 5915 Mason Blvd., Prospect, KY 40059 (did not speak)
James Vandertoll, 6801 Transylvania Ave., Prospect, KY 40059 (did not speak)
Shana Vandertoll, 6801 Transylvania Ave., Prospect, KY 40059 (did not speak)
Lindsey Sowell, 6800 Transylvania Ave., Prospect, KY 40059 (did not speak)
J.D. Taylor, 6520 Mayfair Ave., Harrods Creek, KY 40059
Judge Thomas Knopf (ret.), 7402 Beechspring Farm Blvd., Louisville, KY 40241 (did not speak)
Douglas Barlow (no address provided – did not speak)

Summary of testimony of those in opposition:

05:05:36 Jon Baker spoke in opposition of the request and showed a Powerpoint presentation. Mr. Baker provided proposed findings in support of denial to the Board Members. Mr. Baker stated this is a decision that involves compatibility and inadequate infrastructure to serve the proposed use. Mr. Baker stated this is a land use that has been operated without a permit for well over a year. Mr. Baker showed slides indicating the non-residential character of the property, as well as property maintenance issues (see recording for detailed presentation).

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05:25:20 Jerry Durrett spoke in opposition of the request. Mr. Durrett spoke in regard to the septic system requirements (see recording for detailed presentation).

05:27:55 Elaine Wells spoke in opposition of the request. Ms. Wells spoke in regard to the use of the property (see recording for detailed presentation).

05:33:10 Bill Kitchen spoke in opposition of the request. Mr. Kitchen stated the road is extremely narrow. Mr. Kitchen stated the applicant has no regard for regulations (see recording for detailed presentation).

05:36:06 John Ross spoke in opposition of the request in regard to the use of the property (see recording for detailed presentation).

05:37:53 J.D. Taylor spoke in opposition of the request in regard to the septic system (see recording for detailed presentation).

05:41:12 Jon Baker submitted a letter in opposition from Gil Holland. Mr. Baker stated this is not an appropriate land use for a small residential neighborhood (see recording for detailed presentation).

REBUTTAL:

05:43:10 Michael Gosnell spoke in rebuttal. Mr. Gosnell objected to all that has been submitted and accepted by the Board. Mr. Gosnell stated they did not have a chance to review it and they don't have a chance to refute it at this point in time. Mr. Gosnell stated if the realtor letter that was introduced was going to be considered, he would like to have Mr. Grossberg give further testimony; he is a realtor and licensed appraiser (see recording for detailed presentation).

05:45:00 Daniel Grossberg stated he had pulled up the listings of the properties, which precede the purchase by the Susmans; in other words, they've been on the market longer than the Susmans have lived in the house and they haven't sold. Mr. Grossberg stated he'd get in trouble with his license telling why they haven't sold, but it's every reason other than who's living next door (see recording for detailed presentation).

05:48:10 Mr. Gosnell continued to speak in rebuttal. Mr. Gosnell stated there's a lot of misinformation being given regarding the use of this building. Mr. Gosnell stated it is used primarily as a residence; they do not operate any business out of that unless you want to call a religious institution a business. Mr.

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Gosnell stated the Religious Land Use Act is a civil rights law. Mr. Gosnell read from the Religious Land Use Act, and asked that the Board consider that as they consider this Conditional Use Permit application (see recording for detailed presentation).

05:52:26 Board Members' deliberation

06:03:44 On a motion by Member Buttorff, seconded by Member Turner, 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 request does not meet all of the listed requirements and the Conditional Use Permit cannot be approved; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1120 does hereby **DENY** Conditional Use Permit to allow a private institution.

The vote was as follows:

Yes: Members Buttorff, Turner, and Chair Howard

No: Member Goatley

Abstain: Vice Chair Leanhart

Absent: Member Jagoe

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CASE NUMBER 18CUP1116

Request: **THIS CASE WILL NOT BE HEARD BEFORE 4:00 P.M.**
Conditional use permit for private institutional use with
variance and landscape waivers

Project Name: Indian Trail Prayer Hall

Location: 4804 E. Indian Trail

Owner: LAICC, Inc.

Applicant: LAICC, Inc.

Jurisdiction: Louisville Metro

Council District: 2 – Barbara Shanklin

Case Manager: Joel Dock, AICP, Planner II

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

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

Agency testimony:

06:07:29 Brian Davis submitted the case on behalf of the Case Manager and showed a Powerpoint presentation. Mr. Davis responded to questions from the Board Members (see recording for detailed presentation).

The following spoke in favor of the request:

Curtis Mucci, 5151 Jefferson Blvd., Louisville, KY 40219
Kent Gootee, 5151 Jefferson Blvd., Louisville, KY 40219

Summary of testimony of those in favor:

06:14:08 Curtis Mucci spoke in favor of the request and showed a Powerpoint presentation. Mr. Mucci responded to questions from the Board Members (see recording for detailed presentation).

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06:19:24 Kent Gootee spoke in favor of the request (see recording for detailed presentation).

The following spoke in opposition of the request:

No one spoke.

06:20:06 Board Members' deliberation

06:20:52 On a motion by Vice Chair Leanhart, seconded by Member Goatley, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Conditional Use Permit for private institutional use in a single-family zoning district (4.2.65) with relief from items A and C:

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the proposal complies with Land Use and Development Goal 1: Community form as the proposal is near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned. The proposal complies with Land Use and Development Goal 2: Community form as the proposal is easily accessible by bicycle, car, transit, and for pedestrians and people with disabilities and allows for places of worship near places of activity located with sufficient residential population present or expected to support the use, and

WHEREAS, the Board further finds that the proposal is compatible with surrounding land uses as religious institutions are present at two corners of the same intersection and the subject property is easily accessible by bicycle, car, transit, and for pedestrians and people with disabilities and allows for places of worship near places of activity located with sufficient residential population present or expected to support the use, and

WHEREAS, the Board further finds that necessary on-site and off-site public facilities such as transportation, sanitation, water, sewer, drainage, emergency services, education and recreation adequate to serve the proposed use will be provided. Pedestrian connectivity near a transit stop (route #23) is provided and

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internal walks are provided to provide safe internal pedestrian movement. A detention area is provided and MSD preliminary approval has been received, 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:

- A. Except in the R-R zoning district, all structures, except fencing, and all off-street parking shall be at least 30 feet from any property line adjacent to an existing residential use or residential zoning district. In the R-R zoning district all structures, except fencing, shall be at least 150 feet from any property line and all off-street parking shall be at least 30 feet from any property line.
- B. The applicant must demonstrate that the impact of the traffic generated by the use can be mitigated.
- 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.
- D. All activities shall be in compliance with the Metro Noise Ordinance (LMCO Chapter 99).
- 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, and

WHEREAS, the Board further finds that the applicant is requesting relief from item 'A' to allow for drive lanes and parking to be located within the 30' setback. The north property line abuts a 50' "public area" separating the site from Indian Trail. Adjacent religious institutions have not been subjected to this requirement and are not compliant with this requirement. Relief from item 'C' is necessary to allow parking to be provided with convenient access to the front entrance of the facility. There will be no parking between the facility and E. Indian Trail. Based on these factors the relief appears justified, and

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WHEREAS, the Board further finds that the C.U.P. Request for Relief is in concern to the proximity of parking and pavement in relation to the property line, which is currently required to be 30' away. This setback is required due to the conditional use plan and not necessarily based on intensity. The pavement and parking will meet all vehicular use area requirements and any landscape buffers associated with them outside of this conditional use plan requirement. Adjacent sites, of similar institutional use, are also closer to their own property lines than what would be required in this current situation. Both the adjacent church, community center and library all have parking and pavement closer than 30'. The denial of this relief will restrict parking, reduce the size of the proposed house of worship as well as push the parking and building further into the site, causing the development to be out of character with what already exists across the street along Unseld Boulevard; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1116 does hereby **APPROVE** Conditional Use Permit for private institutional use in a single-family zoning district (4.2.65), with **RELIEF** from Standard 4A and 4C, **SUBJECT** to the following Conditions of Approval:

Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a private institution until further review and approval by the Board.
3. Prior to the issuance of a building permit, a 10' sidewalk easement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services
4. A 15' LBA having a 3' screen and 1 Type 'A' Tree 50' O.C. along the Northwestern Public Area and an 8' screen and 1 Type 'A' Tree 50' O.C. along proposed single-family subdivision shall be provided.

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The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

06:23:11 On a motion by Vice Chair Leanhart, seconded by Member Goatley, the following resolution, based upon the Standard of Review and Staff Analysis, the applicant's findings, and the testimony heard today, was adopted:

Waiver from Land Development Code Section 10.2.4 to reduce the 35' Landscape Buffer Area (LBA) along east and north property lines to 15':

WHEREAS, the Louisville Metro Board of Zoning Adjustment finds that the approval of this waiver will not adversely affect adjacent property owners. A 15' vehicular use area landscape buffer will be provided in place of the 35' landscape buffer. The 15' vehicular use area landscape buffer will be required to provide one Type "A" tree planted every 50'. A 3' screen will also be provided along the property line adjacent to the public area and an 8' screen will be provided along the proposed single-family subdivision. The proposed building is sufficiently set back from the property line at 68'(+/-), being further away than what is required along this property line, and

WHEREAS, the Board further finds that the granting of this waiver will not violate the comprehensive plan as a buffer with plantings and screening will still be provided. This requested waiver is the minimum necessary to afford relief to the applicant as the drive aisle and building size would have to be reduced resulting in smaller building area and less parking, creating unreasonable restrictions of the property. The buffers required per the conditional use plan process are typical for a C-1 use whereas we are proposing a house of worship. The building and parking will be setback as what would typically be required; now, therefore be it

RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1116 does hereby **APPROVE** Waiver from Land Development Code Section 10.2.4 to reduce the 35' Landscape Buffer Area (LBA) along east and north property lines to 15'.

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The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

06:24:26 On a motion by Vice Chair Leanhart, seconded by Member Goatley, the following resolution, based upon the Standard of Review and Staff Analysis, and the testimony heard today, was adopted:

Variance from Land Development Code Section 5.3.2 to allow the proposed structure to be setback greater than 80' in the front yard along Unseld Boulevard and be variable as shown on the development plan:

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 requested setback does not impact the safe movement of vehicles or pedestrian in the area, and

WHEREAS, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the primary entrance is at or near the maximum setback and the design of the façade has recesses that cannot comply with the requirements of maximum setback contained in LDC 5.1.8 which requires 60% of the length of the façade to be at the setback before step-backs are permitted, and

WHEREAS, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as the requested setback does not impact the safe movement of vehicles or pedestrian in the area. All pedestrian accommodations will be made as required, and

WHEREAS, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the primary entrance is at or near the maximum setback and the design of the façade has recesses that cannot comply with the requirements of maximum setback contained in LDC 5.1.8 which requires 60% of the length of the façade to be at the setback before step-backs are permitted; now, therefore be it

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RESOLVED, the Louisville Metro Board of Zoning Adjustment in Case Number 18CUP1116 does hereby **APPROVE** Variance from Land Development Code Section 5.3.2 to allow the proposed structure to be setback greater than 80' in the front yard along Unseld Boulevard and be variable as shown on the development plan.

The vote was as follows:

Yes: Members Buttorff, Turner, Goatley, Vice Chair Leanhart, and Chair Howard

Absent: Member Jagoe

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OTHER BUSINESS

BOZA By-laws

Review of proposed revisions to BOZA By-laws

06:25:51 Chris French, Planning & Design Supervisor, and the Board Members discussed proposed changes to the BOZA By-laws, specifically regarding Reconsiderations. Mr. French stated this item would be listed on the October 7, 2019 agenda for a vote by the Board Members.

06:29:53 Emily Liu, Planning & Design Director, stated staff was considering October 28, 2019 for scheduling another Special Meeting of the Board of Zoning Adjustment. Staff and Board Members discussed.

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The meeting adjourned at approximately 7:49 p.m.

Chair

Secretary