

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

**November 21, 2016**

A meeting of the Louisville Board of Zoning Adjustment was held on November 21, 2016, at 8:30 a.m. at the Old Jail Building, 514 W Liberty Street, Louisville, KY 40202.

**Members present:**

Mike Allendorf, Chair  
Betty Jarboe, Vice Chair  
Rosalind Fishman, Secretary  
Dean Tharp  
Lester Turner, Jr.  
Lula Howard  
Paul Bergmann

\*Board Member Tharp left at approximately 12:00 p.m.

**Staff members present:**

Joe Haberman, Planning Manager  
Brian Davis, Planning Manager  
Jon Crumbie, Planning Coordinator  
Steve Hendrix, Planning Supervisor  
Brian Mabry, Planning Supervisor  
Ross Allen, Planner I  
Joel Dock, Planner I  
Jon Baker, Legal Counsel  
Kristen Loeser, Management Assistant

The following cases were heard:

**BOARD OF ZONING ADJUSTMENT MINUTES  
November 21, 2016**

**BUSINESS SESSION**

**Approval of the November 7, 2016 BOZA Meeting Minutes**

**00:07:32** On a motion by Board Member Howard, seconded by Board Member Tharp, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the minutes of its meeting conducted on November 7, 2016.

**The vote was as follows:**

**Yes: Fishman, Turner, Howard, Jarboe, Tharp, and Allendorf**

**Absent: None**

**Abstain: Bergmann**

**No: None**

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**November 21, 2016**

**BUSINESS SESSION**

**16VARIANCE1080**

|                   |   |
|-------------------|---|
| Request:          | To allow a rear addition to encroach into the side yard setback and reduction in the private yard area. |
| Project Name:     | 602 Baxter Avenue   |
| Location:         | 602 Baxter Avenue   |
| Area:             | .07200 acres  |
| Owner:            | Libor Zacek   |
| Applicant:        | Bruce Rogers – CBR Architects PLLC  |
| Representative:   | Bruce Rogers – CBR Architects PLLC  |
| Jurisdiction:     | Louisville Metro  |
| Council District: | 4 – David Tandy   |
| Case Manager:     | Ross Allen, Planner I   |

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

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

**Agency Testimony:**

**00:11:18** Ross Allen presented the case (see Staff Report and recording for detailed presentation).

**The following spoke in favor of the request:**

Libor Zacek, 602 Baxter Avenue, Louisville, KY 40204

**Summary of testimony of those in favor:**

**00:16:55** The applicant, Libor Zacek, spoke to the Board regarding his request. He stated that Baxter Avenue is a busy street with several commercially zoned properties. This is one of only two houses on this block that is single family residential. He also withdrew the request for Variance #1 from the Staff Report.

**00:22:35** **Deliberation**

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**November 21, 2016**

**BUSINESS SESSION**

**16VARIANCE1080**

**00:26:07** On a motion by Vice Chair Jarboe, seconded by Board Member Howard, the following resolution 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 lot has no accessory structure and has a parking pad to the rear which is excluded from the private yard area calculation which requires 20% for residential lots (per the size of the total lot area less than 6,000 sf.) in the Traditional Neighborhood Form District. The addition poses no threat to the public health, safety, or welfare as a result of the applicant constructing with a one hour fire rated exterior wall, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity since the property is zoned C-1 and the use is a multi-family residential with three other parcels in the same block utilizing the entirety of their parcels, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since The addition will have a one hour fire rated exterior wall, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the applicant has proposed an addition, that by the LDC is permitted, on a C-1 zoned parcel but used as a residential use requires that a private yard area be present since the parcel resides in a Traditional Neighborhood Form District and will be used as a multi-family residential unit, and

**WHEREAS**, the Board further finds that the requested variance does not arise from special circumstances which generally apply to land in the general vicinity or the same zone because three other parcels residing in the same block are using the entirety of their lots, the applicant if allowed to reduce the private yard area to zero sf. would be similar to all but one parcel which has a private yard area to the rear of the principal structure, and

**WHEREAS**, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since the requirement of a private yard area is intended for residential uses within a Traditional Neighborhood Form District however, many parcels in the same block have none if any private yard area since the zoning types are C-1 and many are commercial/retail establishments, and

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**BUSINESS SESSION**

**16VARIANCE1080**

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the applicant has proposed an addition, that by the LDC is permitted, on a C-1 zoned parcel but used as a residential use requires that a private yard area be present since the parcel resides in a Traditional Neighborhood Form District and will be used as a multi-family residential unit; now, therefore be it

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1080, does hereby **APPROVE** the Variance from the Land Development Code section 5.4.1.D.3 to allow the proposed addition to the rear of the camelback shotgun house and cantilever deck (second floor) to reduce the private yard area by approximately 629.19 sf. (**Requirement: 5 ft., Request: 2 ft. 9 in., Variance: 2 ft. 3 in.**) based on testimony heard today and at the prior BOZA meeting, and on the **CONDITION** that the north side yard setback is met.

**The vote was as follows:**

**Yes: Fishman, Bergmann, Turner, Howard, Jarboe, Tharp, and Allendorf**  
**Absent: None**  
**Abstain: None**  
**No: None**

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**November 21, 2016**

**PUBLIC HEARING**

**16VARIANCE1088**

|                           |                              |
|---------------------------|------------------------------|
| Project Name:             | 1057 E. Washington Street    |
| Location:                 | 1057 E. Washington Street    |
| Owner(s):                 | JABB, LLC.                   |
| Applicant(s):             | JABB, LLC.                   |
| Representative(s):        | Schroll Land Surveying, LLC  |
| Project Area/Size:        | 1.32 acres                   |
| Existing Zoning District: | CM, Commercial Manufacturing |
| Existing Form District:   | TN, Traditional Neighborhood |
| Jurisdiction:             | Louisville Metro             |
| Council District:         | 4 – David Tandy              |
| Case Manager:             | Joel P. Dock, Planner I      |

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

**An audio/visual recording of the Board of Zoning Adjustment meeting 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.**

**00:29:33** Joel Dock presented the case (see Staff Report and recording for detailed presentation).

**The following spoke in favor of the request:**  
Bill Schroll, 5450 Southview Drive, Louisville, KY 40214  
Todd Roman, 2101 Elderton Court, Nashville, TN

**Summary of testimony of those in favor:**

**00:34:56** Bill Schroll offered to answer questions on behalf of the applicant. There were no questions.

**00:35:14** The applicant, Todd Roman, stated that the grassy area will be paved to create a parking lot at some point in the future. There will be landscaping added to the site and the canopy will remain as is.

**00:36:35** **Deliberation**

**BOARD OF ZONING ADJUSTMENT MINUTES**  
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**PUBLIC HEARING**

**16VARIANCE1088**

**00:37:03** On a motion by Board Member Fishman, seconded by Vice Chair Jarboe, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the requested variance will not adversely affect the public health, safety, or welfare as the proposed encroachment is located within an industrial site adjacent to a proposed industrial tract containing vehicle parking and vacant land. Office of Construction Review will ensure that all permits issued for any subsequent development on Tracts 1 or 2 meet all applicable building code standards, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity as the subject site is located in an area of mixed industrial uses with nearby residential neighborhoods. The requested variance does not impact the residential character of the neighborhood to the West as the variance is to allow a side yard setback reduction adjacent to another industrial site, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public as all structures are existing and no development has been proposed at this time on Tract 2, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed setback allows for the parking lot to be separated from the structure on Tract 1, and

**WHEREAS**, the Board further finds that the variance arises from special circumstances that do not generally apply to the land in the general vicinity as the area Northeast of the proposed parking lot is vacant land which has the potential for light industrial development in the urban core of Louisville Metro. Tract 2 will maintain private off-street parking facilities to be shared with the existing development on Tract 1, 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 as the existing development on Tract 1 is being subdivided from the parking lot on Tract 2 which will allow future development of Tract 2 to maintain a private off-street parking area, and

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

**BOARD OF ZONING ADJUSTMENT MINUTES**  
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**PUBLIC HEARING**

**16VARIANCE1088**

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1088, does hereby **APPROVE** the Variance from the Land Development Code (LDC), section 5.2.2 to reduce the minimum yard requirement from 10 feet to 5 feet (**Requirement: 10 ft., Request: 5 ft., Variance: 5 ft.**) based on the presentation and the Standard of Review and Staff Analysis.

**The vote was as follows:**

**Yes: Fishman, Bergmann, Turner, Howard, Jarboe, Tharp, and Allendorf**

**Absent: None**

**Abstain: None**

**No: None**



**BOARD OF ZONING ADJUSTMENT MINUTES**  
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**PUBLIC HEARING**

**14CUP1003**

|                           |   |
|---------------------------|---|
| Project Name:             | Conditions of Approval                                  |
| Location:                 | 151 & 201 Cabel Street                                  |
| Owners:                   | Swift Pork Company<br>Louisville Gas & Electric Company |
| Applicant:                | JBS USA, LLC & Swift Pork Company                       |
| Representative:           | Glenn Price   |
| Project Area/Size:        | 8.9012 acres  |
| Existing Zoning District: | M-3, EZ-1   |
| Existing Form District:   | Traditional Neighborhood                                |
| Jurisdiction:             | Louisville Metro  |
| Council District:         | 4—David Tandy   |
| Case Manager:             | Steve Hendrix, Planning Supervisor                      |

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

**An audio/visual recording of the Board of Zoning Adjustment meeting 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:**

**00:38:04** Steve Hendrix stated that this is a status report only.

**The following spoke in favor of the request:**

Glenn Price, 400 W Market Street, Suite 3200, Louisville, KY 40202  
Jon Cliff, 1200 Story Avenue, Louisville, KY 40206

**Summary of testimony of those in favor:**

**00:39:19** Glenn Price spoke on behalf of the applicant. He stated that repairs to the sidewalk along Cabel Street have been completed, but there are some construction materials still on site that will be removed. There will be landscaping planted in the spring. They are in the process of closing Webster Street, and fencing should be completed in February when Webster Street is closed. They are also in the process of getting a lighting certificate that is required to ensure that the lighting is in conformity with chapter 4 requirements. Trash receptacles have been installed.

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**14CUP1003**

**00:46:40** Jon Cliff stated that the Witherspoon area will not be open until April or May of 2017.

**The following spoke in opposition to the request:**

John Salomon, 3600 National City Tower, Louisville, KY 40202

**Summary of testimony of those in opposition:**

**00:48:28** Jon Salomon stated that progress has been made, but there are some outstanding issues regarding lighting, street closures, diesel emissions, and odor that still need to be addressed. He agrees that April 3, 2017 is an acceptable date to follow up.

**Rebuttal:**

Mr. Price did not speak in rebuttal.

**00:51:12 Deliberation**

**00:52:25** On a motion by Board Member Bergmann, seconded by Board Member Fishman, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment, in Case Number 14CUP1003, does hereby accept the timeframe extension for certain Conditions of Approval initially approved on January 11, 2016 and does hereby **CONTINUE** the case to the April 3, 2017 Board of Zoning Adjustment meeting based on testimony heard today and the Staff Report.

**The vote was as follows:**

**Yes: Fishman, Bergmann, Turner, Howard, Jarboe, Tharp, and Allendorf**

**Absent: None**

**Abstain: None**

**No: None**

**BOARD OF ZONING ADJUSTMENT MINUTES**  
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**PUBLIC HEARING**

**16CUP1001**

|                           |                                    |
|---------------------------|------------------------------------|
| Project Name:             | Reports                            |
| Location:                 | 1200 Story Avenue                  |
| Owners:                   | Swift Pork Company                 |
| Applicant:                | JBS USA, LLC                       |
| Representative:           | Glenn Price                        |
| Structure Size:           | 9,852 square feet-CO2 Building     |
| Existing Zoning District: | M-3                                |
| Existing Form District:   | Traditional Marketplace Corridor   |
| Jurisdiction:             | Louisville Metro                   |
| Council District:         | 4—David Tandy                      |
| Case Manager:             | Steve Hendrix, Planning Supervisor |

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

**An audio/visual recording of the Board of Zoning Adjustment meeting 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:**

**00:54:00** Steve Hendrix stated that this is a status report only.

**The following spoke in favor of the request:**

Glenn Price, 400 W Market Street, Suite 3200, Louisville, KY 40202  
Dennis Conniff, 400 W Market Street, Suite 3200, Louisville, KY 40202

**Summary of testimony of those in favor:**

**00:54:37** Glenn Price spoke on behalf of the applicant. All of the equipment is now on site and is functioning. One of their goals is to reduce odors coming from the site. One step they have taken towards this goal is to eliminate the use of a chlorine-like product from their cleaning process. There are more tests to be run at this time (see recording for detailed presentation).

**01:02:29** Dennis Conniff stated that the applicant is undergoing a 45 day test of the AguaCode material on one of the three scrubbers. If test is successful, they will apply for a permit modification with the Air Pollution Control District to approve the use in all

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**PUBLIC HEARING**

**16CUP1001**

three scrubbers. He estimates the timeframe for this to be approximately one year. The timeframe will largely be dependent upon the time it takes the district to approve that permit application, and time will be needed to complete the installation.

**The following spoke in opposition to the request:**

John Salomon, 3600 National City Tower, Louisville, KY 40202

**Summary of testimony of those in opposition:**

**01:11:13** John Salomon again stated that progress is not being made quickly enough. The applicant has put systems in place to reduce the rendering odor, but there has not been enough time to see if this will be effective. There have also been complaints from neighbors about livestock odors coming from trucks when they are backed up before entering the property.

**Rebuttal:**

Mr. Price did not speak in rebuttal.

**01:14:40 Deliberation**

**01:15:51** On a motion by Board Member Bergmann, seconded by Board Member Fishman, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1001, does hereby **CONTINUE** the case to the April 3, 2017 Board of Zoning Adjustment meeting for an AguaCode system status report and so that a representative from APCD can appear before the Board to answer questions regarding the progress of the project.

**The vote was as follows:**

**Yes: Fishman, Bergmann, Turner, Howard, Jarboe, Tharp, and Allendorf**

**Absent: None**

**Abstain: None**

**No: None**

**BOARD OF ZONING ADJUSTMENT MINUTES**  
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**PUBLIC HEARING**

**16VARIANCE1074**

Request: To allow a deck addition to encroach into the minimum side yard setback.  
Project Name: 7206 Hollow Creek Road  
Location: 7206 Hollow Creek Road  
Area: .18150 acres  
Owner: Michael Secor  
Applicant: Michael Secor  
Representative: Michael Secor  
Jurisdiction: Hollow Creek  
Council District: 23 – James Peden  
Case Manager: Ross Allen, Planner I

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

**An audio/visual recording of the Board of Zoning Adjustment meeting 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:**

**01:18:30** Ross Allen presented the case (see Staff Report and recording for detailed presentation).

**The following spoke in favor of the request:**

Michael Secor, 7206 Hollow Creek Road, Louisville, KY 40228

**Summary of testimony of those in favor:**

**01:24:10** Michael Secor spoke regarding the project and provided photographs to the Board along with a newly conducted land survey. He stated that the new addition to the deck is over two feet away from the fence and the height is the same as the original deck. The new addition was constructed to be eight feet wide to match the size of the existing deck.

**The following spoke in opposition to the request:**

Kay Rivoli, 6806 Downs Branch Road, Louisville, KY 40228

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**PUBLIC HEARING**

**16VARIANCE1074**

**Summary of testimony of those in opposition:**

**01:41:02** Neighbor, Kay Rivoli, spoke about her disapproval of the project and provided a photograph to the Board. She stated that the corner of Mr. Secor's deck is only 12'1" away from her property line and is 25 inches taller than her deck. She travels frequently for her job, but she is home more than two weeks a year. Any financial hardship he might face because of this is of his own doing. Mrs. Rivoli responded to further questions from the Board (see recording for detailed presentation).

**Rebuttal:**

**01:48:49** Mr. Secor stated that the posts will be removed once the building permit is granted. He also stated that Mrs. Rivoli's husband asked him to cut down the trees mentioned by Mrs. Rivoli while he was removing other trees, but then Mr. Rivoli denied making this request.

**01:51:16 Deliberation**

**02:01:35** On a motion by Board Member Fishman, seconded by Board Member Howard, the following resolution 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 deck is encroaching but not crossing the property line and is behind a six foot tall fence, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity since many homes in the area have decks attached to the homes at the rear, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the deck although not meeting the setback requirements is within the property boundary. The topography of the area, a sloping grade towards the East, does place the applicant's deck at a higher point than the fence located between the applicant and the adjoining neighbor to the East, and

**BOARD OF ZONING ADJUSTMENT MINUTES**  
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**PUBLIC HEARING**

**16VARIANCE1074**

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the deck is within the parcel boundary and is behind a privacy fence. As stated previously, the deck is situated at a higher elevation permitting the applicant to view down and into the Eastern neighbor's rear property, and

**WHEREAS**, the Board further finds that the requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone since many homes in the vicinity have attached decks found to the rear of the principal structures, and

**WHEREAS**, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since the deck has been constructed and if the variance is not granted the applicant would need to reduce the size of the deck, and

**WHEREAS**, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the deck has been constructed and if the variance is not granted the applicant would need to reduce the size of the deck; now, therefore be it

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1074, does hereby **APPROVE** Variance from the Land Development Code section 5.3.1.C, table 5.3.1 to allow an addition onto an existing deck to encroach into the minimum side yard setback by approximately 3.55 ft., noting that the applicant will remove the six foot posts along the deck (**Requirement: 5 ft., Request: 1.45 ft., Variance: 3.55 ft.**), based on discussion at both hearings, the Standard of Review and Staff Analysis, and additional considerations from the Staff Report

**The vote was as follows:**

**Yes: Fishman, Turner, Howard, Tharp, and Allendorf**

**Absent: None**

**Abstain: None**

**No: Jarboe and Bergmann**

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**November 21, 2016**

**PUBLIC HEARING**

**16VARIANCE1081**

|                   |  |
|-------------------|--|
| Request:          | To allow an enclosed new addition to encroach into the 30 foot street side yard setback. |
| Project Name:     | Borsch Residence   |
| Location:         | 300 Norbourne Blvd.  |
| Area:             | .15740 acres   |
| Owner:            | Natalie Borsch   |
| Applicant:        | Glen Coke – Coke General Contracting Inc.  |
| Representative:   | Glen Coke – Coke General Contracting Inc.  |
| Jurisdiction:     | City of St. Matthews   |
| Council District: | 26 – Brent T. Ackerson   |
| Case Manager:     | Ross Allen, Planner I  |

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

**An audio/visual recording of the Board of Zoning Adjustment meeting 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:**

**02:04:15** Ross Allen presented the case (see Staff Report and recording for detailed presentation).

**02:08:22 Deliberation**

**02:10:03** On a motion by Board Member Howard, seconded by Board Member Fishman, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1081, does hereby **CONTINUE** the case to the December 19, 2016 Board of Zoning Adjustment meeting to obtain further information and testimony from the applicant.



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**PUBLIC HEARING**

**16VARIANCE1070**

Request: To allow a proposed garage reduce the private yard area.  
Project Name: 2327 Sycamore Ave.  
Location: 2327 Sycamore Ave.  
Area: 0.21620 acres or 9,417.67 sf.  
Owner: Josh Lindley  
Applicant: Anne Del Prince – Del Prince Designs LLC.  
Representative: Anne Del Prince – Del Prince Designs LLC.  
Jurisdiction: Louisville Metro  
Council District: 9 – Bill Hollander  
Case Manager: Ross Allen, Planner I

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

**An audio/visual recording of the Board of Zoning Adjustment meeting 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:**

**02:11:46** Ross Allen presented the case (see Staff Report and recording for detailed presentation).

**The following spoke in favor of the request:**

Anne Del Prince, 640 Country Club Road, Louisville, KY 40206

**Summary of testimony of those in favor:**

**02:21:31** Anne Del Prince provided the Board with another site plan showing where new greenspace would be located.

**02:23:58 Deliberation**

**02:24:50** On a motion by Board Member Howard, seconded by Board Member Fishman, the following resolution was adopted:

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**PUBLIC HEARING**

**16VARIANCE1070**

**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 proposed replacement garage increases distance between the structure found on the adjacent parcel, 2323 Sycamore Ave., is located approximately 38 feet from the property line along Keats Ave., 13 feet from the rear of the principal structure, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity since a COA from the Urban Design Team ensures that materials, size, shape, and proportion of the proposed garage will conform to what is within the general vicinity, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the proposed replacement garage increases distance between the structure found on the adjacent parcel, 2323 Sycamore Ave., is located approximately 38 feet from the property line along Keats Ave., 13 feet from the rear of the principal structure, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations since the property is odd shaped having a 94 foot front yard frontage along Sycamore, a 131.84 foot street side yard angling towards the rear of the property along North Keats Ave., a 58.52 foot rear yard, and a 126 foot side yard of which all are existing conditions. The rear yard is small since the home is located almost central to the property boundaries reducing the distance between the rear of the principal structure and the accessory structure, and

**WHEREAS**, the Board further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since the home is situated central on the parcel which reduces the area of the rear yard, the property has larger area found along the street side yard and the front yard with smaller area in the rear yard as a result, 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 since the odd shape of the parcel and location of the home on the parcel result in a small rear yard area (approximately 2825 sf.) with large street side and front yards. As a result yard area is limited for locating the proposed replacement garage, and

**WHEREAS**, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the lot existed prior to the request for the replacement garage, and

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**PUBLIC HEARING**

**16VARIANCE1070**

**WHEREAS**, the Committee further finds that, based on the staff report, the applicant's justification and the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1070, does hereby **APPROVE** the Variance from the Land Development Code section 5.4.1.D.2 to allow proposed detached garage to reduce the private yard area by approximately 54% of the required (2825 sf. or 30% of total lot area) on a lot 6,000 sf. or greater (**Requirement: 2,825 sf., Request: 1,312 sf., Variance: 1,513 sf.**) based on the Staff Report, presentation by Staff, and the applicant's justification.

**The vote was as follows:**

**Yes: Fishman, Bergmann, Turner, Howard, Jarboe, Tharp, and Allendorf**

**Absent: None**

**Abstain: None**

**No: None**

**BOARD OF ZONING ADJUSTMENT MINUTES**  
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**PUBLIC HEARING**

**16VARIANCE1084**

Request: Variance from the Land Development Code to allow a proposed detached garage to reduce the private yard area to less than the 30% of the total lot area.

Project Name: 1866 Alfresco Place Variance

Location: 1866 Alfresco Place

Area: .14540 acres

Owner: James and Jane Convery

Applicant: Charlie Williams – Charlie Williams Design Inc.

Representative: Charlie Williams – Charlie Williams Design Inc.

Jurisdiction: Louisville Metro

Council District: 8 – Tom Owen

Case Manager: Ross Allen, Planner I

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

**An audio/visual recording of the Board of Zoning Adjustment meeting 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:**

**02:28:25** Ross Allen presented the case (see Staff Report and recording for detailed presentation).

**The following spoke in favor of the request:**

Charlie Williams, 1626 Windsor Place, Louisville, KY 40204

**Summary of testimony of those in favor:**

**02:32:10** Charlie Williams stated that the projection into the yard that is seen on the site plan is a covered porch, so it does not visually encroach as much as a closed structure would. Siding and shingles will match the house and roof.

**02:33:56 Deliberation**

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**November 21, 2016**

**PUBLIC HEARING**

**16VARIANCE1084**

**02:34:19** On a motion by Board Member Fishman, seconded by Board Member Bergmann, the following resolution 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 private yard area is being reduced by a proposed garage at the rear of the property that meets all setback requirements and is only accessible to the resident/s, and

**WHEREAS**, the Board further finds that the requested variance will not alter the essential character of the general vicinity since eight homes along the same block have garages to the rear of their properties, and

**WHEREAS**, the Board further finds that the requested variance will not cause a hazard or nuisance to the public since the garage will be at the rear of the property and with an enclosed yard, and

**WHEREAS**, the Board further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the intent of the garage is to provide off street parking while still providing green space, and

**WHEREAS**, the Board further finds that the requested variance does not arise from special circumstances which do generally apply to land in the general vicinity or the same zone since other garage exist on the block, and

**WHEREAS**, the Board further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant since the applicant is simply replacing an existing garage, and

**WHEREAS**, the Board further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the applicant is requesting the variance from the private yard area as a result of the newly constructed garage, and

**WHEREAS**, the Committee further finds that, based on the staff report, the applicant's justification and the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16VARIANCE1084, does hereby **APPROVE** the Variance from the Land Development

**BOARD OF ZONING ADJUSTMENT MINUTES  
November 21, 2016**

**PUBLIC HEARING**

**16VARIANCE1084**

Code section 5.4.1.D.2 to allow a proposed detached garage to reduce the private yard area to less than the required 30% of the total lot area (6,400 sf.) on a parcel zoned R-5 in a Traditional Neighborhood Form District (**Requirement: 1,920 sf., Request: 901 sf., Variance: 1,019 sf.**) based on presentation heard today, Standard of Review and Staff Analysis, the site plan, and the applicant's justification.

**The vote was as follows:**

**Yes: Fishman, Bergmann, Turner, Howard, Jarboe, Tharp, and Allendorf**

**Absent: None**

**Abstain: None**

**No: None**

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**November 21, 2016**

**PUBLIC HEARING**

**15CUP1007**

|                           |   |
|---------------------------|---|
| Project Name:             | None  |
| Location:                 | 2733 West Market Street                       |
| Owner:                    | Willie Jordan                                 |
| Applicant:                | Willie Jordan                                 |
| Representative(s):        | Willie Jordan                                 |
| Project Area/Size:        | 0.12 acres                                    |
| Existing Zoning District: | R-6, Residential Multi-Family                 |
| Existing Form District:   | TN, Traditional Neighborhood                  |
| Council District:         | 5 – Cheri Bryant Hamilton                     |
| Case Manager:             | Jon E. Crumbie, Planning & Design Coordinator |

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

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

**Agency Testimony:**

**02:36:44** Jon Crumbie presented the case (see Staff Report and recording for detailed presentation).

**The following spoke in favor of the request:**

Willie Jordan, Ekron, KY 40117

**Summary of testimony of those in favor:**

**02:44:30** Willie Jordan spoke regarding the case. He is seeking a permit for a boarding house to assist low income people in this area and he is a disabled veteran himself. When he started this project, he did not realize he needed a permit. It is currently operating as a boarding house with 4 tenants. There will be a site manager who will be staying in bedroom 1 on the floor plan, and tenants would have access to common areas and two bathrooms. He responded to questions from the Board (see recording for detailed presentation).

**The following spoke in opposition to the request:**

Myra Friend-Ellis, Office of Metro Council District 5

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**November 21, 2016**

**PUBLIC HEARING**

**15CUP1007**

**Summary of testimony of those in opposition:**

**03:03:36** Myra Friend-Ellis, of Councilwoman Bryant-Hamilton's office, stated that she appreciates Mr. Jordan's compassion, but District 5 is inundated with boarding homes and halfway houses. This project will not be a good fit for this neighborhood and should not be located across the street from a liquor store and convenient store.

**Rebuttal:**

**03:06:15** Mr. Jordan stated his intent with this project is to help people. There are so many people who only care about themselves, but there are people in world who need help. This project should not be refused because of drugs or alcohol in the area.

**03:07:36 Deliberation**

**03:16:35** On a motion by Vice Chair Jarboe, seconded by Board Member Bergmann, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment, in Case Number 15CUP1007, does hereby **CONTINUE** this case to the January 9, 2017 Board of Zoning Adjustment meeting so that the applicant can conduct a neighborhood meeting under the guidance of staff, address outstanding code violations, and to provide photographs of the interior of the home.

**The vote was as follows:**

**Yes: Fishman, Bergmann, Turner, Howard, Jarboe, Tharp, and Allendorf**

**Absent: None**

**Abstain: None**

**No: None**



**BOARD OF ZONING ADJUSTMENT MINUTES**  
**November 21, 2016**

**PUBLIC HEARING**

**16CUP1031**

|                           |   |
|---------------------------|---|
| Project Name:             | None  |
| Location:                 | 1319 Gilmore Lane                             |
| Owner(s):                 | Carroll Spencer                               |
| Applicant(s):             | Carroll Spencer                               |
| Representative(s):        | Carroll Spencer                               |
| Project Area/Size:        | 1,070 square feet                             |
| Existing Zoning District: | R-4, Residential                              |
| Existing Form District:   | N, Neighborhood Form District                 |
| Jurisdiction:             | Louisville Metro                              |
| Council District:         | 21 – Dan Johnson                              |
| Case Manager:             | Jon E. Crumbie, Planning & Design Coordinator |

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

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

**Agency Testimony:**

**03:21:41** Jon Crumbie presented the case (see Staff Report and recording for detailed presentation).

**The following spoke in favor of the request:**

Carroll Spencer, 1319 Gilmore Lane, Louisville, KY 40213

**Summary of testimony of those in favor:**

**03:29:32** Carroll Spencer stated that the small building behind the garage is the structure being proposed for the Conditional Use Permit. The large red structure is also on his property and will remain a garage. He does not own the square-shaped property to the north of his property. The first floor of the proposed structure will be a garage and small kitchen area. The second floor will be made up of two bedrooms, a bathroom, and a living area.

**The following spoke in neither for nor against the request:**

**BOARD OF ZONING ADJUSTMENT MINUTES**  
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**PUBLIC HEARING**

**16CUP1031**

Gary Darby, 4443 Dyer Avenue, Louisville, KY 40213

**Summary of testimony of neutral parties:**

**03:40:28** Neighbor, Gary Darby, stated that the property owners have improved the property and he is fine with the project, but is concerned about the view from the second story windows invading his privacy.

**03:44:10 Deliberation**

**03:44:39** On a motion by Vice Chair Jarboe, seconded by Board Member Turner, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Board of Zoning Adjustment finds that the proposal is consistent with the applicable policies of the Comprehensive Plan. Guideline B.2 (Community Form), the proposal preserves the existing grid pattern of streets, sidewalks and alleys. Guideline A. 23 (compatibility), setbacks and building heights are compatible with those of nearby existing developments, and

**WHEREAS**, the Board further finds that the proposal is compatible with surrounding land uses with respect to height, bulk, scale, intensity, lighting, and appearance, and

**WHEREAS**, the Board further finds that MSD and transportation Planning have reviewed and approved the proposal. The Camp Taylor Fire Protection District did not comment on the proposal, and

**WHEREAS**, the Board further finds that accessory apartments may be allowed in the R-R, R-E, R-1, R-2, R-3, R-4, R-5 and U-N districts upon the granting of a conditional use permit and compliance with the listed requirements. There are four listed requirements and the applicant will need to modify item B, and

**WHEREAS**, the Board further finds that the principal and accessory dwellings shall be owned by the same person(s). Occupancy of the accessory unit shall occur only while the property owner(s) resides in the principal dwelling on the premises, and

**WHEREAS**, the Board further finds that the accessory structure will be 1,070 square feet, and

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**PUBLIC HEARING**

**16CUP1031**

**WHEREAS**, the Board further finds that if the accessory apartment is located in a freestanding structure, it shall not exceed the height of the principal residence. In the TNFD, permissible height shall be as allowed by the form district regulation, unless the Board approves a differing height. In all other form districts, if the freestanding structure is located within 25 feet of a property line, the height of the structure shall not exceed the average height of accessory structures on abutting parcels or 15 feet, whichever is greater, unless the Board finds that a different height limit is appropriate, and

**WHEREAS**, the Board further finds that sites having accessory apartments shall provide off-street parking for the principal and accessory apartment as follows:

1. Neighborhood Form District - at least three off-street spaces provided on the lot, no more than two spaces outdoors;
2. Traditional Neighborhood - at least one off-street space provided on the lot; and
3. Other form districts - at least two off-street spaces provided on the lot; the Board may require additional parking spaces as appropriate; now, therefore be it

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1031, does hereby **APPROVE** (1) the Conditional Use Permit to allow an accessory apartment in a R-4 zoning district and (2) the applicant's request to not add additional landscaping to the site, based on the Staff Report and the Standard of Review and Staff Analysis and **SUBJECT** to the following conditions of approval:

**Conditions of Approval:**

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

**The vote was as follows:**

**Yes: Fishman, Bergmann, Turner, Howard, Jarboe, and Allendorf**

**Absent: Tharp**

**Abstain: None**

**No: None**

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**November 21, 2016**

**PUBLIC HEARING**

**16CUP1037**

|                           |   |
|---------------------------|---|
| Project Name:             | Short Term Rental                             |
| Location:                 | 2407 Emil Avenue                              |
| Owners:                   | Luke Skeen                                    |
| Applicant:                | Luke Skeen                                    |
| Representative(s):        | Luke Skeen                                    |
| Project Area/Size:        | 0.11 acres                                    |
| Existing Zoning District: | Residential Multi-Family Zoning District (R6) |
| Existing Form District:   | Traditional Neighborhood (TN)                 |
| Jurisdiction:             | Louisville Metro                              |
| Council District:         | 15 – Marianne Butler                          |
| Case Manager:             | Joseph Haberman, AICP, Planning Manager       |

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

**An audio/visual recording of the Board of Zoning Adjustment meeting 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:**

**03:50:34** Joe Haberman presented the case (see Staff Report and recording for detailed presentation).

**The following spoke in favor of the request:**

Luke Skeen, 1223 Valley Drive, Louisville, KY 40213

**Summary of testimony of those in favor:**

**04:01:07** Luke Skeen stated that he and his wife initially got into short term rentals to assist in paying for school for their children, but they also enjoy serving people visiting the city. He said that 90% of the people who rent from them are families. They have had no complaints from the neighbors so far. He lives about a mile from the property.

**The following spoke in neither for nor against the request:**

Suzanne Haddix, 1825 Woodbourne Ave, Louisville, KY 40205

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**16CUP1037**

**Summary of testimony of neutral parties:**

**04:04:33** Suzanne Haddix was present to speak for the following case, but wanted to ask the Board questions during this case. The Board confirmed for her that the Conditional Use Permit does remain for the life of the property. The Short Term Rental allowance only stays with the property as long as the owner is there. Mr. Haberman explained this process in further detail (see recording for detailed presentation).

**04:10:03 Deliberation**

**04:10:58** On a motion by Vice Chair Jarboe, seconded by Board Member Fishman, the following resolution was adopted:

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

**WHEREAS**, the Board further finds that the underlying use of the property shall remain the same (single family dwelling). The proposal only involves allowing short term rentals within the existing dwelling unit. No additional development is proposed. As such, the proposal is compatible with the surrounding land uses with respect to height, bulk, scale, intensity, traffic, noise, odor, drainage, lighting and appearance, and

**WHEREAS**, the Board further finds that the underlying use of the property shall remain the same (single family dwelling). The proposal only involves allowing short term rentals within the existing dwelling unit. No additional development is proposed. There were not any agency comments indicating that the property's existing public facilities are inadequate to serve short term rentals, and

**WHEREAS**, the Board further finds that the proposal meets the applicable standards provided within Section 4.2.63 of the Land Development Code:

A short term rental of 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 a 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:

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**PUBLIC HEARING**

**16CUP1037**

*The property is within a zoning district that permits short term rentals – R6.*

A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.

*The applicant has been informed of this requirement. If a contract exceeds 29 consecutive days, it is not subject to the short term rental regulations. It may be noted that long term rental contracts are permitted on the property so long as the use remains single family residential.*

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

*The applicant has been informed of this requirement.*

C. At no time shall more persons reside in the short term rental than two times the number of bedrooms plus four individuals.

*The applicant has been informed of this requirement. The dwelling unit includes 3 bedrooms. As such, the maximum occupancy of the dwelling unit as a short term rental is 10 persons.*

D. The dwelling unit shall be a single family residence or duplex. This provision shall not be waived or adjusted.

*The building is a single family residence.*

E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.

*The applicant has been informed of this requirement.*

F. Outdoor signage which identifies the short term rental is prohibited.

*The applicant has been informed of this requirement.*

G. There shall be a sufficient amount of parking available for the host and 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. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated.

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**16CUP1037**

*The minimum parking requirement for a single family dwelling on a lot of less than 6,000 square feet in the TN form district is one space. Driveways, carports and garages may be used to fulfill this requirement. While there is not a carport or garage on the property, there is a driveway that can accommodate up to three vehicles. The existing amount of parking is conforming. In addition, on-street parking spaces may be used to satisfy the minimum parking space requirements in the TN form district. Any on-street parking space used in this manner must be located on a public street directly abutting and on the same side of the street as the site. The property abuts Emil Avenue, which has legal and unrestricted on-street parking; however on street parking is only permitted on the opposite, western side of the street. In any event, existing on-street parking in the immediate vicinity is sufficient to accommodate existing demand as well as the anticipated additional demand resulting from one guest party associated with the short term rentals.*

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

*The applicant has been informed of this requirement. The short term rental must be registered annually in accordance with Chapter 115 of the Louisville Metro Code of Ordinances.*

I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6.

*The applicant has been informed of this provision; now, therefore be it*

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1037, does hereby **APPROVE** the Conditional Use Permit to allow the short term rental of a dwelling unit in the R6 Zoning District that is not the primary residence of the host based on the Staff Report, the Standard of Review and Staff Analysis, and the applicant's testimony and **SUBJECT** to the following conditions of approval:

**Condition of Approval**

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

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**PUBLIC HEARING**

**16CUP1037**

**The vote was as follows:**

**Yes: Fishman, Bergmann, Turner, Howard, Jarboe, and Allendorf**

**Absent: Tharp**

**Abstain: None**

**No: None**



**BOARD OF ZONING ADJUSTMENT MINUTES**  
**November 21, 2016**

**PUBLIC HEARING**

**16CUP1053**

|                           |   |
|---------------------------|---|
| Project Name:             | None (Short Term Rental)                        |
| Location:                 | 2205 Wibben Ave.                                |
| Owner:                    | Kimberly Meehan                                 |
| Host:                     | Kimberly Meehan                                 |
| Representative(s):        | Kimberly Meehan                                 |
| Project Area/Size:        | 3,337 square feet                               |
| Existing Zoning District: | R-5, Residential Single- Family                 |
| Existing Form District:   | TN, Traditional Neighborhood                    |
| Jurisdiction:             | Louisville Metro                                |
| Council District:         | 8 – Tom Owen                                    |
| Case Manager:             | Brian Mabry, AICP, Planning & Design Supervisor |

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

**An audio/visual recording of the Board of Zoning Adjustment meeting 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:**

**04:14:57** Brian Mabry presented the case (see Staff Report and recording for detailed presentation).

**The following spoke in favor of the request:**

Kimberly Meehan, 1609 Speed Avenue, Louisville, KY 40205

**Summary of testimony of those in favor:**

**04:22:10** Kimberly Meehan is a co-owner of the property along with four other family members, and she lives only a few minutes away. She owns other short term rental properties and has only had positive experiences doing this. Parking is a problem, but it would be a problem even if this was a single family home. The most people she has ever hosted at once was six.

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**16CUP1053**

**The following spoke in opposition to the request:**

Don Erickson, 2301 Dundee Road, Louisville, KY 40205

Suzanne Haddix, 1825 Woodbourne Avenue, Louisville, KY 40205

Anna Hager, 1747 Harvard Drive, Louisville, KY 40205

Angela Herps, 1905 Woodbourne Avenue, Louisville, KY 40205

Jennifer Ackerman, 1823 Woodbourne Avenue, Louisville, KY 40205

**Summary of testimony of those in opposition:**

**04:27:27** Don Erickson does not have a problem with owner occupied short term rental, but he takes issue when the owner is does not reside at the property. He feels that the ordinance should not allow eight people to be in this size home at once. Parking is a concern as well. When cars are parked on both sides of the street, only one can pass through at a time. Security is also a concern. There is supposed to be renter screening, but this home is listed on the website as "instant book".

**04:43:10** Suzanne Haddix stated that traffic is a huge problem, and she is concerned with not knowing who is going in and out of the home. Crime has increased in this neighborhood.

**04:46:09** Anna Hager has used Airbnb before and has always been provided parking. She rents out a portion of a duplex and provides parking to her tenants; she feels that most people who rent expect to have parking provided to them. She does not feel that this is suitable for the neighborhood.

**04:48:34** Angela Herps shares the same concerns as her other neighbors, but is mainly concerned that the conditional use permit will last for the lifetime of the property. She also noted Councilman Tom Owen's opposition to this project.

**04:49:52** Jennifer Ackerman shares the concerns of her neighbors. She provided the Board a page of signatures from neighbors asking for the denial of this request. She does not feel this is a suitable site for short term rentals. One of the conditions of a conditional use permit is adequate parking, which this site does not have. The project is not compatible with surrounding area.

**Rebuttal:**

**04:52:38** Ms. Meehan feels like most of testimonies from the opposition were based on emotion, not facts. The property will be maintained more easily as a short term

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**16CUP1053**

rental than a long term rental because she will be able to monitor the condition of the home more frequently. She explained that “instant book” allows that time slot to be held while the owner screens the renter. She would be willing to list her house for only six people rather than eight. She will be readily available to renters because she lives nearby.

**04:58:44     Deliberation**

**05:10:39**     On a motion by Vice Chair Jarboe, seconded by Board Member Howard, the following resolution was adopted:

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

**WHEREAS**, the Board further finds that the proposal is compatible with its surroundings because the request only involves allowing a short term rental within the existing single-family dwelling. No additional development is proposed. As such, the proposal is compatible with the surrounding land uses with respect to height, bulk, scale, intensity, traffic, noise, odor, drainage, lighting and appearance, and

**WHEREAS**, the Board further finds that the subject property is in a developed area where public facilities are readily available. There were not any agency comments indicating that the property’s existing public facilities are inadequate to serve a short term rental, and

**WHEREAS**, the Board further finds that a short term rental of 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 a short term rental of any dwelling unit in a TNZD district may be allowed upon the granting of a Conditional Use Permit. In addition to any conditions of approval, a short term rental and its host shall meet the following requirements:

A. The maximum stay for a guest shall be 29 consecutive days. A dwelling unit rented to the same occupant 30 consecutive days or more is not considered a short term rental.

*The applicant has been informed of this requirement. If a contract exceeds 29 consecutive days, it is not subject to the short term rental regulations. Long term rental contracts are permitted on the property so long as the use remains single-family residential.*

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**16CUP1053**

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

*The applicant has been informed of this requirement.*

C. At no time shall more than six persons reside in the short term rental.

*The applicant has been informed of this requirement. The dwelling has two bedrooms. The applicant has no plans to add bedrooms to the structure.*

D. The dwelling unit shall be a single-family residence or duplex. This provision shall not be waived or adjusted.

*The dwelling unit is a single-family residence.*

E. Food and alcoholic beverages shall not be served or otherwise provided by the host to any guest.

*The applicant has been informed of this requirement.*

F. Outdoor signage which identifies the short term rental is prohibited.

*The applicant has been informed of this requirement.*

G. There shall be a sufficient amount of parking available for the host and 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. Any parking surface that is added to accommodate the short term rental use shall be removed when the short term rental use is terminated.

*The applicant states in her application that the subject property does not have a front driveway or rear parking area, but that on-street parking is ample.*

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

*The applicant has been informed of this requirement.*

I. If the property is subject to two (2) or more substantiated civil and/or criminal complaints, the Board of Zoning Adjustment may revoke the approval pursuant to section 11.5A.6.

**BOARD OF ZONING ADJUSTMENT MINUTES**  
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**16CUP1053**

*The applicant has been informed of this provision; now, therefore be it*

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1053, does hereby **APPROVE** the Conditional Use Permit to allow short term rental that is not the primary residence of the host in an R-5 zoning district based on the Staff Report, the applicant's testimony, and the Standard of Review and Staff Analysis and **SUBJECT** to the following conditions of approval:

**Conditions of Approval**

1. The short term rental and host shall meet all additional requirements set forth in the Louisville Metro Code of Ordinances.
2. The total number of occupants per short term rental contract shall not exceed six.

**The vote was as follows:**

**Yes: Turner, Howard, Jarboe, and Allendorf**

**Absent: Tharp**

**Abstain: None**

**No: Bergmann and Fishman**

**BOARD OF ZONING ADJUSTMENT MINUTES**  
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**PUBLIC HEARING**

**16APPEAL1013**

|                           |                                    |
|---------------------------|------------------------------------|
| Project Name:             | Nonconformance                     |
| Location:                 | 1636 West Oak Street               |
| Owner:                    | Khairunissa Mohiuddin              |
| Appellant:                | Khairunissa Mohiuddin              |
| Representative:           | Khairunissa Mohiuddin              |
| Size:                     | 0.170 acres                        |
| Existing Zoning District: | R-7                                |
| Existing Form District:   | Traditional Neighborhood           |
| Jurisdiction:             | Louisville Metro                   |
| Council District:         | 6 – David James                    |
| Case Manager:             | Steve Hendrix, Planning Supervisor |

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the BOZA meeting (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S 5th Street).

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

**Agency Testimony:**

**05:15:56** Steve Hendrix presented the case (see Staff Report and recording for detailed presentation).

**The following spoke in opposition to the appeal:**

Carol Clark, 1645 Hale Avenue, Louisville, KY 40210

**Summary of testimony of those in opposition:**

**05:29:12** Carol Clark is opposed to alcohol sales at this property because there are already enough stores that sell alcohol in this area. She named a number of these stores. Per the Board's request, she named the various stores that have occupied this property over the years.

**The following spoke in favor of the appeal:**

"Moe" Mohiuddin, 1636 W Oak Street, Louisville, KY 40210  
Khairunissa Mohiuddin, 1636 W Oak Street, Louisville, KY 40210  
Marie Hambric, 1634 W Oak Street, Louisville, KY 40210

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Rodney M. Thomas, 1633 W Oak Street, Louisville, KY 40210  
Roosevelt Williams, 2302 Osage Avenue, Louisville, KY 40210  
Keith Swearingen, 1622 W Oak Street, Louisville, KY 40210  
Velda Olyhill, 1633 W Oak Street, Louisville, KY 40210

**Summary of testimony of those in favor:**

**05:33:11** Mr. Mohiuddin, "Moe," stated that the building was known as J&J Mart at that time of purchase and was in need of repair when it was purchased. They spent a considerable amount of money to restore the property to working condition. They thought at the time that they obtained all the necessary permits to restore the structure and resume business. The neighbors love the store and would like to be able to purchase beer at this location.

**05:40:00** Khairunissa Mohiuddin stated they were not aware of the zoning issues when they purchased the property, and they have spent a significant amount of money renovating it, all from their savings.

**05:41:25** Mr. Mohiuddin stated they do not have the necessary refrigeration system to store beer or the additional produce they would like to sell. They would like to expand their food sales.

**05:48:19** Marie Hambric lived next door to the Oak Lounge for years and never had a problem. She is fine with a store being in this location and with alcohol sales. J&J Mart used to sell beer.

**05:51:51** Rodney Thomas' mother lives on Oak Street. Moe is a good neighbor and helps clean up the neighborhood, even offering his own tools. He supports the store and alcohol sales.

**05:53:01** Roosevelt Williams stated that he has followed Moe from store to store as a customer because he likes his stores. But it is inconvenient that he cannot buy beer at this location. Moe is a good neighbor and even lets school children fundraise from his store.

**05:54:22** Keith Swearingen stated that he met Moe two months ago. He is impressed with how detail oriented Moe and Khairunissa are, and they have become friends. The store has had a positive impact on the neighborhood.

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**05:56:40** Velda Olyhill stated that her mother lives on Oak Street. Moe and his wife are very nice and they deserve to have their beer license. She would purchase beer there rather than going further down the street.

**05:58:03** Mr. Hendrix clarified that the initial letter from Planning and Design Services stated that information was not sufficient, nor was Staff authorized, to make a determination regarding a change from one nonconforming use to another nonconforming use.

**05:59:16 Deliberation**

**06:21:29** On a motion by Vice Chair Jarboe, seconded by Board Member Howard, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Board of Zoning Adjustment, in Case Number 16CUP1053, does hereby **CONTINUE** the case to the December 19, 2016 Board of Zoning Adjustment meeting for Staff and various government agencies to make a determination regarding the nonconforming use at this address.

**The vote was as follows:**

**Yes: Fishman, Bergmann, Turner, Howard, Jarboe, and Allendorf**

**Absent: Tharp**

**Abstain: None**


**No: None**




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**ADJOURNMENT**

The meeting adjourned at approximately 4:00 p.m.

  
\_\_\_\_\_  
Chair

  
\_\_\_\_\_  
Secretary

